AGENDA

City of Aurora
PLANNING COMMISSION MEETING
Tuesday, February 04, 2014, 7:00 p.m.
Council Chambers
21420 Main Street N.E., Aurora, Oregon

1. Call to Order of Planning Commission Meeting:

2. City Recorder Calls Roll

Chairman, Schaefer
Commissioner, Willman,
Commissioner, Gibson
Commissioner, Graham,
Commissioner, Fawcett,
Commissioner, Weidman
Commissioner, TBA

3. Consent Agenda

All matters listed within the Consent Agenda have been distributed to each member of the Aurora Planning Commission for reading and study, are considered to be routine, and will be enacted by one motion of the Commission with no separate discussion. If separate discussion is desired, that item may be removed from the consent Agenda and placed on the Regular Agenda by request.

Minutes

I. Aurora Planning Commission Meeting –January 07, 2014
II. City Council Minutes – December, 2013
III. Historic Review Board Minutes –

Correspondence

I.

4. Visitor

Anyone wishing to address the Planning Commission concerning items not already on the meeting agenda may do so in this section. No decision or action will be made, but the Council could look into the matter and provide some response in the future.

5. Public Hearing

A. Public Hearing regarding LA-14-01 which would amend sections of the Municipal Code.

- **16.22 Historic Commercial Overlay**
- **16.58 Site Development Review**

This is a public meeting and all interested citizens are invited to attend. The meeting place is not handicapped accessible; those needing assistance should contact the city Office three (3) working days before regularly scheduled meetings. The minutes of this and all public meetings are available at City Hall during regular business hours. All meetings are audio taped and may be video taped
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B. Letter from Historic Review Board.

6. New Business

A. Discussion and or Action of Letter of Interest to join the Aurora Planning Commission from Mercedes Rhoden-Feely.

7. Old Business

A. Discussion and or Action on View Corridor's

B. Discussion and or Action on the Possible or Impending Legalization of Recreational sale of Marijuana as it could pertain to our code.

C. Discussion on LA-13-1 regarding sale of water to the Aurora Airport.

8. Commission Action/Discussion

A. City Planning Activity (not in Your Packets) Status of Development Projects within the City.

9. Adjourn,

This is a public meeting and all interested citizens are invited to attend. The meeting place is not handicapped accessible; those needing assistance should contact the city Office three (3) working days before regularly scheduled meetings. The minutes of this and all public meetings are available at City Hall during regular business hours. All meetings are audio taped and may be video taped
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Minutes
Aurora Planning Commission Meeting
Tuesday, January 07, 2013 at 7:00 P.M.
Aurora Commons Room, Aurora City Hall
21420 Main St. NE, Aurora, OR 97002

STAFF PRESENT: Kelly Richardson, City Recorder

STAFF ABSENT: **Renata Wakeley, City Planner**

VISITORS PRESENT: **Mercedes Rhoden-Feely, 21513 Liberty Street Aurora**

1. Call to Order of Planning Commission Meeting

The meeting was called to order by Planning Chair Joseph Schaefer at 7:03 p.m.

2. City Recorder Did Roll Call

Chairman, Schaefer -	**Present**
Commissioner, Willman	**Present**
Commissioner, Gibson	**Present**
Commissioner, Graham	**Present**
Commissioner, Fawcett	**Present**
Commissioner, Weidman	**Present**

3. Consent Agenda

Minutes

I. Aurora Planning Commission Meeting –December 3, 2013
II. City Council Minutes – November, 2013
III. Historic Review Board Minutes –

No comments….

A motion is made by Commissioner Graham to approve the consent agenda as presented and seconded by Commissioner Gibson. Motion Approved by all.

Correspondence

I. **Email Information on Comprehensive Plan Amendments, (**Chair Schaeffer) very exciting news that they are now accepting emails for map amendments.

4. Visitor

Anyone wishing to address the Planning Commission concerning items not already on the meeting agenda may do so in this section. No decision or action will be made, but the Planning Commission could look into the matter and provide some response in the future.

Mercedes Rhoden-Feely of 21513 Liberty Street informs the Planning Commission that she is interested in joining the group.

No one else spoke.

At this point Chair Schaefer is speaking about items that were on the last month's agenda regarding parking /garages until he is notified of such.

What has happened is a person applied to replace an old manufactured home with a new stick builds building that doesn't have a garage. It turns out that it is a requirement to either have a garage or an accessory structure, as I understand the idea was that if you had a garage or structure that you could then take care of potential clutter. My own perspective is I have a very old house and a lot of cars that I work on and I am sure my neighbors think what a redneck. Realize a lot of people would view this as a nuisance so the question is do we think this language to require a garage or accessory structure belongs in the code. Asks parking spaces requirement? (Schaefer)I am of a mind that yes we need a provision for off street parking.

5. New Business

A. Discussion on Site Selection and the Woodburn Urban Growth Boundary"
Oregon Court of Appeals made a decision on the Woodburn Urban Growth Boundary Woodburn has been working on this since the late 1990's and they are still having trouble. The issue is a new economic development program/idea it new as it is applied to the Oregon land use system they thought up this idea and sold it to the DLCD and this is the second time "Thousand Friends of Oregon" has opposed it and the Oregon Court of Appeals has agreed with the thousand friends. I don't want to spend a lot of time on this but want you to understand the importance of this regarding economic development.

Traditionally to expand your Urban Growth Boundary for Commercial properties you had to calculate acreage based on metrics of type of business you expect. Others are based on number of employee's per business type. Essentially when you build a business park you could have a sense of how many people are going to fit in square footage of office space. If you're going to build and industrial facility they use a different formula but you can estimate it as well.

What Woodburn proposed that is not how businesses think when they are looking for places to locate they want to shop around for sites and to accommodate for a certain number of businesses. Woodburn needs to do that first calculation so they can see how much acreage is like to be available. They also need to do another calculation to add additional land so when those people come in to their city to look around they have a variety of sites to choose from. After they did this second analysis they compared it to first analysis and LCDC found that the two really weren't that different so the court of appeals rejected that. Court of Appeals said go back and said try to explain

it again. A lot people felt that the court of appeals just isn't buying it and they might as well they can't figure it out. So at this point it is kicked back down to LCDC and they are supposed to re analyze the whole thing.

Gibson, so Woodburn stays in limbo until this is figured out, **Schaeffer** I believe so I am not sure if part of their UGB is approved and moving forward or not.

Schaeffer just wanted you to know.

B. Discussion and or Action on the Possible or Impending Legalization of Recreational sale of Marijuana as it could pertain to our code. And in addition the email for the current statute which allows for grow sites and distribution of Medical Marijuana and the ORS that allows it. The medical marijuana statute is in effect. Many jurisdictions are trying to come up with Ordinances to incorporate the businesses into their code. That is what this community forum being sponsored by the County.

My own opinion is that it's a moving target in that many believe because of the recreational marijuana pending this November which in scale may dwarf the medical marijuana. So with that said I think rather than redo our code more than once we see what other jurisdictions do to handle this and let the dust settle a bit. The risk to that approach is that if someone wants to come to town and set up a dispensary then our response at that time would be we currently do not have language in our code to cover that use. Why don't you come and speak with our Planning Commission regarding the issue. I believe since we are such a small community we can afford to wait before we react.

Many cities are using zoning regulations and language to put limits on it such as,

- Distances to children and schools,
- for us it could be do we want it in Historic District
- And do we want to have it next to churches and so on.

What happened in Washington, they got a comfort letter and we are not going to in force the law against marijuana but we do think you should do these 4 or 5 things, regarding recreational uses.

At least one city is standing on no you can't do it. According to our ORD. is the way we are choosing to go.

If a current licensed practitioner wants to dispense it, well I think we could do some code language to cover that.

Now the question is what happens if we at a local level approve a use but then the Fed's say no then what do we do. There are many opinions on this.

My main concern is that I don't want us to be caught up in a legal responsibility of allowing it and then the Fed's come in and say no. what do we do now? Currently we are talking Medical. Chair Schaefer I say keep our heads low for now and let the dust settle deal with it if and or when we receive and application. **Commissioner Gibson**, I think it reasonable I don't want to be on the leading edge of this.

Graupp, I am asking Planning Commission for help on Aurora's opinion towards this. At the Mayors coalition they had discussed to treating as a land use situation requiring setbacks from

residential, schools, churches so on and so forth. My reason for bringing it up is that we have a chance to lobby with some of these larger groups. People are asking me an opinion for Aurora. This needs to be done by a professional.
Schaefer, I really don't think we should have an opinion at this point on recreational sales.
Graham, if we do 1,000 feet from everything they won't even be in the city limits.
Graupp, I believe that we should limit distribution to licensed professionals that already distribute drugs now. Lobby to write the bill that way.
Willman, I think we should not take a stance on this now. Let the dust settle.
Visitor Mercedes Freely, let's not adopt others problems what exists now to stop this, Chair Schaefer if it's not expressly stated than it's prohibited. Asks about is there a distinction on whether or not there is language for the selling of cigarettes? We should maybe take a look at uses.
Schaeffer I think that if the Fed's pass a law it's not like local cities can't just have a meeting the next day and adopt language regarding it so there is lag time.
Visitor Mercedes, it's a risk either way.
Schaefer, I presume that League of Cities would lobby for setbacks from schools and others.
Graupp, hence why my stance was that we get a professional write the bill.
Weidman, I think if someone is pressuring you for and opinion I think we should not at this point take a stance. Until we have more opinions from say citizens.

Should we keep this an agenda item every month or every other month? Let it sit for now. Maybe we hold off until an opinion from Patti Milne, Marion County.

C. Discussion on code language for requiring Garages, in discussion with Renata apparently this is a requirement mandated by our code, I would like your opinion on this

Willman, I don't believe they should and if it is because of messy people and their items on display. They could have a garage and still have items on display. You can't change messy people. Schaefer I feel the same way.
Fawcett, are you sure this is in the code? Schaefer it is my understanding that the code does require one accessory space.
Graham, so it has to be a carport or garage, Schafer it could be a separate shed.

Weidman, I don't want to look at peoples stuff but I think it's your property and should be able to do what they want. I do see both sides and I want to hear from others. (Keep it as in the code now)
Graham, what are we talking about here? Is this based on space? (I like what is in the code now.)
Schafer, We know what the code is today the question is do we want to change the requirement or not.
Fawcett, 16:36:030, siding B 7 off street parking garage or carport siding to match home is required.
R1, 16:100:40 section 16:42. Parking including MF home it is required to have a garage or carport. They are the same for both MF home and stick built home. 16:42:030, off street may be provided for in all uses and all zone 2 spaces per home. Parking may not be used for storage or sale.
I think I prefer what the code states for resale purposes.
Schaefer I am with Commissioner Fawcett that distinguishing differences between MF home and Stick built home is something we should really not do. I really don't think a garage is necessary. Maybe we should see what the city council has to say about it.
Gibson, I like what the code currently states.

Consensus is to keep language as is and require it, however I think again see what Council has to say on it.

Councilor Sallee asks exactly what the question is (do we keep with what the code language is currently that makes it a requirement or do we want to allow people to not be required to build a carport or garage.)

Fawcett, Can they apply for a variance well not sure I would have to look at that it could be a grey area.

Fawcett brings up a question regarding pavement of a driveway and the issue of not making it a requirement.

D. Discussion regarding second issue charging SDC charges, based on the fact that there is no record of them being paid at the time of original placement of the manufactured home should they be charged now or not? As far as City Recorder Richardson can tell by what is in the file no SDC's have been charged or paid. So do we charge them now that they are building?

- Compare bedrooms and plumbing fixtures of the two structures
- Distinguish if meter or line needs are upgraded or not.
- Look at the overall square footage and compare the two.

Willman, I don't think we should charge SDC fee because a stick built home is more pleasing. I really think that we shouldn't except if they upgrade to a 1 inch water line.
Fawcett if they have a driveway it is required to have a paved driveway and impervious surface requirements.
Gibson was this something that they understood at time of purchase.
Fawcett, states that Marion County has a replacement application and they do not charge SDC Aurora has only a building permit.
Richardson, at this point Council took this situation and at their meeting made a decision based on the fact that we had an application in place and there was a deadline issue. However they made it clear in their motion that it was for this application only that they were not setting a precedent and wanted your discussion and thoughts on this situation for future situations. Now let me ask you this as far as your discussion would it make a difference if they had sold first and now a new property owner wanted to build on the site. Comments back on this were no from the commission.
Mayor Graupp, I am looking at precedence for if you go in and change a single family home with an apartment complex they most certainly are going to use more and be more of a load on the system therefore I believe it would be feasible at that point.
Schaefer, states I say we use the square footage and fixture count on plumbing and on bedrooms for street. We take the middle ground.
Fawcett, I want to say that in the Marion County replacement application states same like home so if you put up a 5 bedroom home then yes you would charge.
Graupp Is it number of bedrooms or based on # of people sleeping based on numbers of people living there.

Choices are;

1. Charge nothing,
2. Charge incremental if they build a larger home with more square footage. All agree except Willman.

3. No one is in favor of charging all.

Discussed is residential based on bedrooms and Commercial on fixture count? Square footage is also discussed most of the commission agree except Commissioner Willman.
Consensus is,
Chair Schaeffer Partial SDC based on taxable square footage. We will leave the rate to Council. I would say the rate be determined by the average square footage of a residence and divide by SDC charge to determine a rate.

Chair Schaefer adds this item to agenda for discussion,

E. Discussion of LA- 13-1 allowing water sales to the Airport. Marion County is proposing to change their comprehensive plan to allow the extension of water from the City of Aurora to properties in the public zone at and surrounding Aurora Airport. The hearing is 9:30 am at the downtown Salem Wednesday January 22.

Gibson, so what does that mean the Airport cant drill anymore wells or something and need to obtain water from us.
Schaefer, it means the County Land use is paving the way for that to happen. Presumably our staff is going to recommend approval. I am not surprised by this application but I don't know any of the specifics. I have not seen anything as of yet but I am sure a staff report will be issued prior to the meeting. I don't know who this was initiated by if Marion County or someone else **Mayor Graupp** states Planner Brendon Reich, Schaefer goes on to say that obviously the Airport is interested in enjoying some of Aurora's water.

Graham are they on our aquifer/ no

Schaefer, so how do you feel about this situation?

Graham, they would have to incorporate into the city and pay SDC.
Willman, who would pay for the entire infrastructure that would have to go in?
Schaefer, the Airport would have the pleasure of footing the bill for that.
Graupp, they have a water district at the airport that is sanctioned by Marion County and they want to expand or change the definition of their district because currently they are only for safety and they want to include drinking and potable water.
Schaefer, when you say change the definition I guess I am not real clear because when you say change, this part of the hearing is strictly land use **Graupp** yes Brendan is taking care of his part and then there will be a different hearing on the definition because currently it is for fire safety only they want to expand it to include drinking /potable water. But they would still have a district.

Graham, do they want to annex, no way stated by Graupp they don't want to lose control.

Gibson, do we have water that we can give up to them? (Graupp)We would expand our capacity this is open conversation no decisions have been made we would have to put a tank up there. Gibson would we drill another well Graupp yes do we have that ability to drill Yes (Graupp). We would have too and it's already been checked out.

Fawcett, interesting because currently city code requires that you must annex into the city limits in order to connect to city water.

Graupp, well that would be something that we would change.

Gibson, so the city is interested in such a thing? Mayor Graupp well that is why we are here to discuss it.

Weidman, so would it be that we would upgrade our stuff so our water would be better too? I say absolutely not we just had a ban on watering this summer.
Schaefer, yes and this situation will be worse this next summer.

Gibson, what was the reasoning for the summer rationing? Graupp hitting that capacity of 260 gallons a day and running the aquifer down to 30 feet and running our pumps now in other parts of the city where we are not running our pumps there is plenty of water. There are many things we could have a work session to cover all of them if you like we have collected a lot of data. Well 5 is down for repair currently and when that is fixed we should see about 75% return on it. This well is not the one that is currently a part of this conversation.

Fawcett, Is the main reason they want to connect to get rid of their sewage? Mayor Graupp no that would be a violation of goal and need a goal exception from DLCD and no one is asking for that.

Graupp, no water would not be a goal exception according to DLCD **Schaefer** I am not so sure about that. Councilor Sallee I guess you have to go to the meeting.

Willman, move this meeting along and send a representative to see what is happening at the hearing. Information gathering at this point from the hearing.

Graupp, A number of letters are being written already from various parties. They have asked my stance on it and I have not as of yet given a response. **Weidman** so they want to have their cake and eat it too they don't want to annex but they want our water. **Graupp** they want to buy water from us yes.
Sallee, I think it's important to attend the hearing and we need more information.
Schaefer, well the hearing is not the place to get information if you want information call Brendan Reich at Marion County to obtain it before the hearing. **Graupp** however you will only get the Marion County view on this really to contact the airport for their view as well.

The key thing is to look for the staff report, prior to the meeting. Mayor Graupp now Marion County is not the decision maker here they are just the enabler the decision maker here is the Aurora Airport Water District. So they are changing their zoning to allow it to happen Graupp if they choose too. Graupp now I couldn't even answer the question because it wouldn't be legal so Marion County jumped on it and started their part to get it out of the way first.

6. Old Business

A. Discussion and or Action on View Corridor's, table for next meeting, Schaefer I looked over the franchise agreements I think we can do this without redoing these.

7. Commission Action/Discussion

A. City Planning Activity (in Your Packets)
Status of Development Projects within the City.

- City Planner Wakeley had no discussion items in addition to what has been previously discussed.

8. Adjourn

Chairman Schaefer adjourned the meeting at 8:45 pm

_____
Chairman, Schaefer

ATTEST:

_____
Kelly Richardson, City Recorder

Minutes
Aurora City Council Meeting
Tuesday, December 10, 2013, at 7:00 P.M.
City Council Chambers, Aurora City Hall
21420 Main St. NE, Aurora, OR 97002

STAFF PRESENT: Kelly Richardson, City Recorder
Jan Vlcek, Finance Officer
Pete Marcellais, Marion County Deputy
Dennis Koho, City Attorney
Mary Lambert, Administrative Assistant

STAFF ABSENT: Bob Southard, Water Superintendent

VISITORS PRESENT: Bill Simon, Aurora
Darrel Lockard

1. Call to Order of the City Council Meeting

   The meeting was called to order by Mayor Bill Graupp at 7:02 p.m.

2. Administrative Assistant does roll call

   Mayor Graupp – present
   Councilor Sallee- present
   Councilor Brotherton -present
   Councilor Sahlin – present
   Councilor Vlcek – present

3. **Consent Agenda**

   I. City Council Meeting Minutes – November 12, 2013, pg 2 of 7 typo on spray. Councilor Sallee points out a few more typos.
   II. Planning Commission Meeting Minutes – November 05, 2013
   III. Historic Review Board Minutes –October. 2013

Correspondence

I. One Item Added by Mayor Graupp, SEDCOR has asked us to sign a letter of support for possible grant money from the State.

Motion to approve consent agenda was made by Councilor Sallee, seconded by Councilor Vlcek. Motion passes.

4. Visitors

Anyone wishing to address the City Council concerning items not already on the meeting agenda may do so in this section. No decision or action will be made, but the City Council could look into the matter and provide some response in the future.

No one spoke during this section.

5. **Mayor's Report,**

A. I wanted to inform council that we are now officially a Certified Local Government, they did request two changes to title 17 that were very minor. But not required to achieve certification.
1. A sentence that states that we would follow all of the state and national historic guidelines and rules.
2. Mayor Graupp couldn't recall at this time.

B. Because of our accomplishment of Certified Local Government, we can now take advantage of many different grant opportunities.

- Oregon Main Street, is one that I would like to discuss there is approximately 3 various levels of participation
  1. Allows us to send representatives to their conference.
  2. Actual participation and how to improve your district through a team of people.
  3. Complete participation by forming and actual board with oversight and setting up an action plan.

I would like council to think about the level of commitment that we would be comfortable with. I think level 2 is a good starting point however there is some commitment and we would need to attend the conference.

There is a cost because you are committing at least one person to attend the conference at level 2.

Kuri Gill from SHPPO did offer to attend our next council meeting to explain further if we so choose.

I think a work session is a good idea and then we can invite Kuri Gill.

C. I would like to discuss with Council is the question regarding what are we doing at the local level/district to prepare for the impending legalization of Marijuana in Oregon. I had been asked this question at two recent events that I have attended.

- I gave this same question to our Planning Commission and gave them a year to think about it and to prepare their thoughts.

There were really no more questions at this time.

6. **Discussion with Parks Committee,** Councilor Sahlin points out that apparently it won't be Bob who will get the water supply done for the outside structure since his retirement is just around the corner.

7. **Discussion with Traffic Safety Commission,** nothing discussed.

8. **Reports**

A. **Marion County Deputy Report – (included in your packet)** Deputy Marcellais is Basic Report stats are given, one question regarding the reported sex offense, deputy Marcellais informs council that it happened out side of this jurisdiction.

- Councilor Sahlin asks about the status of speeding in town since the speed trailer has been in town.
- Informed Council that deputy Buckholtz is recovery at home from his recent gunshot wound.
- Soon the contract with City of Donald will be finalized and at that time there will be another officer in the area close by.

B. **Finance Officer's Report – Financials** (included in your packets)

1. Revenue & Expense Report
    - As presented and at this time there are no individual funds that are of concern.
    - The audit report is not available at this time for discussion.
    - I would like to take a moment to recognize Mary Lambert as our new Finance Officer and welcome her aboard.
    - We did not advertize for this position as we had a qualified applicant within our organization.

      <u>A motion to formally approve Mary Lambert as the new Finance Officer and department head effective January 1, 2014 is made by Councilor Brotherton and is seconded by Councilor Sahlin. Motion Approved Unanimously.</u>

    - Hours discussed are to remain at 32 hours.
    - Councilor Sallee asks about contracts, Koho states that we would write it to retain our at will status.
    - Councilor Vlcek states that we should basically have a template for the contracts so they are all similar.
    - There will be a 6 month probationary period

- Currently as stated by City Recorder Richardson at this point our goal is that Mary Lambert and I will tag team all areas of the administration at City Hall until we know more regarding the budget.
- Councilor Sahlin asks that we keep the council up to date on the situation so we are not caught off guard.
- If at some point Jan is needed she is willing to come in on contract for her services.

C. Public Works Department's Report – (included in your packet)

Councilor Vlcek, did we officially end the water restrictions. Yes as of October 1st.

1. *Monthly Status Report (Storm Water)* Councilor Brotherton reads the Public Works report as Bob is currently in training along with assistant Ricky Sellers.
    - Well 5 is currently still down for repairs.
    - Council asks if the situation on Liberty and 4th has been resolved or is there a new leak?

2. Monthly Status Report (Water)
   Parks Report,
    - Mayor Graupp as this time discusses the open employee positions and his goals for these positions.
    - So currently Southard and Sellers are in training to renew their certifications as a backup plan if needed.
    - I have also been in discussion with the City of Hubbard as a contingency plan and currently City Attorney Koho is reviewing a possibly IGA with them. There is a discussion on what they would be charging.
    - Councilor Vlcek asks for clarification on the differences between the full time utility worker and the part time utility worker as does Councilor Sallee as far as what duties they will be performing. Mayor Graupp states I think as we go through this it will explain it.
    - So one of the items of concern was how do we market the positions ultimately it would be best to have one position have all certifications needed ultimately that would be the best coverage under the Superintendent. So at that point we were unclear of our path at this point however in the last week.
    - Currently we have a very viable candidate for our new Public Works Superintendent and at this time I would like to introduce Darrel Lockard to the council. He is currently the trainer in the area and has a very extensive background. I did some phone interviews and ruled out the other applicants because either they were not certified or out of State. Also it would be the recommendation of the interview committee that we hire Darrel.

    - Councilors at this time had a few questions of the new Superintendent candidate.

- Discussion of Darrel continuing as an instructor everyone on council agreed that this would be a consideration.
- Councilor Vlcek asks if our employees would and could receive their training from him as a trade off for the city to pay salary while he is teaching this would need to be in the contract. Also pointed out to the candidate that this is not necessarily a 40 hour a week position and certainly not behind a desk. Darrel was fine with that.

- Darrel asks a few questions regarding the water system.

- Councilor Sallee asks Mayor Graupp if it would be appropriate to discuss wages as she is uncomfortable approving it without knowing the numbers involved. Mayor Graupp states that it is within the allotted budgeted amount and left it at that as he didn't want to discuss specific numbers in an open public meeting.
- Koho you could state the amount budgeted if you would like.
- Councilor Sallee asked for clarification that we now will have one Department Head over both water and sewer and also asked the anticipated start date of the new Superintendent. (Within a week is the answer given by Mayor Graupp).

<u>A motion to accept the recommendation of the interview panel to hire Darrel Lockard as the new Public Works Superintendent is made by Councilor Sahlin and seconded by Councilor Vlcek. Ayes are Brotherton, Vlcek, and Sahlin, Graupp. Nays Sallee.</u>

Secondly at this time Mayor Graupp informs the Council that the full time assistant's position has been filled. We had a possibility of 5 candidates and during phone interviews discovered that many of the applicants didn't have certifications and or experience needed for this position accept for one individual that has been volunteering for 10 months and has received a lot of training with our previous operator Otis Phillips and came highly recommended by him and that is Ray Lowe.

- Mayor Graupp states because of coverage issues we have already begun the hiring process of this candidate. I called everyone on council I attempted to call Vlcek and I was told you were out of town.
- That leaves a part time position which at this time we are putting on hold until we see what happens in the general fund.
- There is a brief discussion on protocol for hiring practices asked by Councilor Vlcek, Mayor Graupp states that he read the charter and the council procedures he did not see the employee handbook statement which doesn't match the other two. I struggle with the handbook being the most restrictive part in this. Koho states it should be descriptive not restrictive. Koho states that he looked at this and agrees that department heads are hired by Council and department heads can hire their employees. Richardson states history shows protocol in the past practices is stated to be that a

motion is made and recommendation by interview panel even through the police department.

- Councilor Vlcek states that he has concerns on how this process took place I think we need to follow the process so we keep ourselves out of problem areas.
- Also Councilor Vlcek strongly suggests to Mayor Graupp that there needs to be better communication between himself and the rest of the Council in making these types of decisions. Either through email or phone messages. We all need to be kept up to date. I am asking you point blank are you planning on not including me in other decisions the fact that you stated you cannot get a hold of me is nonsense staff can get a hold of me at all times. I have been left out of other decisions as well such as regarding the possibility of the RFP for Public Works. Councilor Brotherton agrees that we need to communicate better.

  Moving on Sahlin makes a motion .....

A motion is made by Councilor Sahlin to approve the recommendation by Public Works Superintendent, Bob Southard to hire Ray Lowe as the new full time Public Works Assistant/Utility Worker I and is seconded by Councilor Brotherton. Ayes Graupp, Sahlin, Brotherton and Sallee. Nays Councilor Vlcek not the employee but the process as stated by Vlcek.

Councilor Sallee after the motion is made makes comments that the council as a whole needs to have better communication and transparency and if it requires a special meeting to achieve this then that's what we need to do. I would feel much better about these types of decisions knowing that we are all together on them and are aware of what is happening.

Councilor Sahlin comments back that he felt the Superintendent was there along with the Mayor and Councilor Brotherton and they were capable of handling this situation with hiring the full time assistant position.

Councilor Sallee it really is more with me all about the budget and I need to know those numbers to be confident in what I am approving rather than the employee/applicant.

Councilor Sahlin the numbers were discussed in September however the Mayor states that Councilor Sallee was not here during that discussion.

City Recorder Richardson addresses the Council regarding a past warning of hitting reply all regarding their email responses that was issued by City Attorney Koho earlier and asks him for clarification at this time because ultimately the council should be able to hit reply all so that everyone knows what is being discussed and kept in the loop of discussion.

City Attorney Koho states that if you are emailing and in that email you say (what do you all think about that) then you are essentially having a meeting and it should be open to the public for review. If you are simply sending out information for everyone to review that would be ok.

A. **Waste Water Treatment Plant Update** (not included in your packet) everything is looking good and Ricky Sellers is continuing the maintenance of the treatment plant until a suitable replacement is hired.

D. City Recorder's Report (included in your packet)

- Reads her report as included in packets
- I had added a few questions regarding the status of the part time utility worker which you answered already. (it's on hold)
- I also sent out the rejection/thank you letters for the full time utility position.
- You also answered the questions regarding the RFP status for Public Works that was a discussion only at this time.
- No questions from Council at this time

Councilor Sahlin does pose the question do we need to revisit the employee manual regarding what was discussed here tonight. City Attorney Koho I do believe that the employee manual is a reference only and anything in it should point to either the ORS or the Resolution that puts it into play. This would take some time to achieve this however.

City Recorder Richardson clarifies that after reviewing the city charter again and speaking with the attorney that the charter is clear and states officers and who is an officer so I believe a small adjustment to the employee handbook would take care of the issue.

E. City Attorney's Report – (not Included in your packet)
In Koho' absence the Mayor reports on their conversations prior to the meeting.

- Not a lot to report we did have a question regarding SDC's and when/if it would be applicable regarding replacement and new construction.
- Apparently we had a mobile home removed and the property owner wanted to rebuild a new stick built home and I had stated that this would be a good argument in favor of charging the SDC's Kelly did you find out other information regarding this? Richardson answers yes from both Councilor Sahlin and Chair Schaeffer which were both leaning towards charging initially and then they both decided that since water and sewer were already on site it wouldn't constitute a large enough increase however Chair Schaeffer did say to find out how many bathrooms were in the new structure and square footage verses the old. Richardson states that we have a good game plan and it may at a later date come before council.
- Koho goes on to say that the issue also is that no SDC's were charged initially to the property because it was before the city had those

charges. I spoke to a land use attorney and initial conversation was that we could.

- ➢ No contact as of yet from MR. Eddy and the lien has been filed.
- ➢ No more questions from the Council

❖ Discussion goes on regarding SDC"S a bit more some of these are a close call and the consensus of the council at this time for this particular application only is to not charge the SDC's and hand it down to the Planning Commission for further discussion for future instances. Also a part of the discussion is regarding on whether or not the applicant would be requesting a larger line hook up for water.

9. Ordinances and Resolutions

10. New Business

A. Discussion and or Action on OLCC Special Events Applications.

A consensus of the Council to acknowledge the applications as presented is made and approved by Council.

B. Discussion and or Action on Code Language for Sidewalk Ownership and Maintenance Responsibilities.

- Councilor Sallee, so you own a piece of property and your tax lot goes up to the sidewalk it is interesting to me that the property owner is responsible for maintenance.
- Councilor Vlcek, where does the city stand liability wise if someone were to trip on a side walk because we didn't notify someone that there sidewalk was in disrepair, City Attorney Koho we could be held liable whether we notify them or not?
- Councilor Brotherton states that he wants the new Superintendent at some point to do a list of areas that we need to look into.
- Mayor Graupp safety trumps everything.
- Councilor Brotherton safety improvement project but where are we going to get the money. We could look into some grants if they are out there.

/ / / / / / / / /

/ / / / / / / / /

11. Old Business

A. NA

Once I get budget numbers I will send out a summary for everyone's review.

12. Adjourn

Mayor Graupp adjourns the meeting at 9:02 pm.

Bill Graupp, Mayor

ATTEST:

Kelly Richardson, City Recorder

HISTORIC REVIEW BOARD MINUTES
21420 MAIN ST. NE, AURORA OR 97002
December 19, 2013

Staff Members Present: Kelly Richardson, City Recorder

Others Present: **Bill Graupp, Aurora**

The meeting of December 19, 2013 was called to order at 7:00 p.m. by Chairman Townsend.

Chairman Townsend takes Roll Call

Chairman Karen Townsend – Present
Vice-Chair Gayle Abernathy – Present
Member Bill Simon – Present
Member Merra Frochen – Absent
Member Mella Dee Fraser – Present

CONSENT AGENDA

A. Minutes

I. Historic Review Board Minutes – November 21, 2013

A motion to approve the HRB minutes of November 21, 2013, as submitted was made by Member Simon, seconded by Member Fraser and passed unanimously.

CORRESPONDENCE

I. **Letter for consideration from Chair Townsend**, so I basically am saying I am willing to serve again if council wants me too.

Motion to recommend Karen Townsend and Mella Fraser to City Council for another term is made by Member Abernathy and seconded by Member Simon Motion passes unanimously.

VISITORS

Bill Graupp, Mayor of Aurora informed the group that he attended training with Kuri Gill on how to fill out a grant application.

Also he explains that City Council had expressed an interest in scheduling a workshop with Planning and HRB in the near future to discuss the Oregon Main Street Program and the depth of the involvement that everyone wants to see.

One item that council discussed as a perspective grant opportunity would be the decorative banners on the street light poles announcing the Historic District. This would be a 50% match grant as it was explained to me.

5. OLD BUSINESS

A. **Discussion and/or action on paint color list.** Chairman Townsend has prepared a handout for the group and asks them to turn to page 35 though 37 in their guidelines. Much of the guidelines contain very specific code language that is now in title 17 so we will need to pull that language out as we do not want it to be repetitive. The guidelines will now serve as the history and explanatory document and title 17 will be the regulating document.

During this process it is determined that City Recorder Richardson will be the keeper of the document and we will make all of the corrections in strike out bold format to keep track of them until we have completed the document.

- It would be nice if we can add pictures to update the look of it as well.
- Member Abernathy ask what exactly is the mission of the museum, it is stated that their focus is on the Aurora Colony and the history of that.
- They agree that it would be helpful to ask Patrick Harris the museum curator for his help and expertise in this project.

B. **Discussion and/or action on Historic Inventory list.**

The board is tabling the inventory discussion until the January meeting awaiting the Mayors information that he can supply.

6. NEW BUSINESS

A. Discussion and or Action on Application for New Fence and Replacement of Retaining Wall. Property location 21823 Airport Rd NE. Jorge Castro Valdes.

- **Retaining Wall**, applicant shows pictures of the wall to the board I want to keep it the same but I want to replace it with new poured concrete, Townsend confirms with the applicant that it is poured concrete rather than blocks.

Townsend states, if you are replacing what is there and you're not going to change anything, this would not require a decision on this item.

- **Fencing**, regarding the new code title 17 it is very limiting on pg 431 and 432. The applicant shows picture to the board that shows where he wants to fence which is basically the back yard and all around the property.
  Discussion;
- Because of the age it's a non-contributing structure 432 section
  D 1, wood picket fencing it would need to be white, Townsend reads this section out loud to the group.
  Now the house behind you it's really hard to say if it is a contributing structure or not because they are going to take the house out so they can build more homes. So really it is not a contributing structure any more so on the back side of the property you could do metal but on the front it must be a wood picket fence. So you can do the metal back yard fence however you will have to plant screening so that no one can tell the fence is there. As for your side yard, it could be viewed by Ehlen Rd currently. However once the lot to the side of you is developed then the view could be blocked. What is the length of the side property yard on Ehlen/side can you estimate it? No not really answers the applicant.

  Member Abernathy, I do not see what he is proposing fits with our new code.

  So we would need you to come back with what your picket fence would look like and we would need to see the gate you are proposing. And what you are proposing for the rest of the yard and what you will be proposing for the screening at the next meeting. January, 23 at 7 pm.

B. Discussion and/or action on draft language for letter on sign issues in the district.

- Discussion, we need to look at signs and do an inventory,

They like the letter and ask Kelly to send it out.

ADJOURN

Chairman Townsend adjourned the meeting of December 19, 2013 at 8:39 pm.

Karen Townsend

Karen Townsend, Chairman

ATTEST:

Kelly A Richardson

Kelly Richardson, City Recorder

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that on **Tuesday, February 4, 2014 at 7:00 p.m. at Aurora City Hall, 21420 Main Street NE**, the Aurora Planning Commission will conduct a public hearing regarding Legislative Amendment 11-01 (**LA-14-01**) which would amend sections of the Aurora Municipal Code.

At the conclusion of the public hearing, the Planning Commission will make a recommendation to the Aurora City Council regarding the proposed amendments. The City Council will conduct a public hearing to consider adoption of the proposed amendments. That hearing is scheduled for **Tuesday, February 11, 2014 at 7:00 p.m., Aurora City Hall, 21420 Main Street NE.**

The proposed amendments for application LA-14-01 include allowing food carts as a permitted use in the Historic Commercial Overlay (HCO) zone. The update also proposes to amend the Site Development Review standards to reduce triggers for an application from a 10% increase in intensity of use to a 25% increase and revises portions of Title 18-Land Development to correctly address the application process and language related to recent updates to Title 17 - Historic Preservation.

Person wishing to participate in the public hearing may appear in person or by representative at the date and time listed above. Written comments may also be submitted by mailing information to 21420 Main Street NE, Aurora, OR 97002.

One week prior to the meeting a copy of amendments will be available for inspection at no cost or copies may be purchased at a reasonable cost.

For further information, please contact the City of Aurora at (503) 678-1283.

Chapter 16.22

HC HISTORIC COMMERCIAL OVERLAY

Sections:

16.22.010 Purpose.
16.22.020 Permitted uses.
16.22.030 Conditional uses.
16.22.040 Development standards.

16.22.010 Purpose.

The purpose of the historic commercial overlay is to implement the City of Aurora Design Guidelines for Historic Properties while providing for a concentrated, central commercial, office and retail goods and services area with opportunities for employment and business and professional services in close proximity to residential services. (Ord. 415 § 7.74.010, 2002)

16.22.020 Permitted uses.

In the historic commercial zone, activities shall be conducted within an enclosed structure or building and are subject to Chapter 16.58, and shall require approval under Title 17 as applicable~~ certificate of appropriateness approved by the historic review board~~. Only the following uses and their accessory uses are permitted outright:

A. Auditorium, exhibit hall, community building, club, lodge hall, fraternal organization or church;

B. Bed and breakfast inn, hotel or motel;

C. Bicycle sales or repair;

D. Community recreation facilities;

E. Cultural exhibits and library services;

F. Day care facility licensed by state;

G. Dwelling units located on the second floor of the commercial structure;

H. Eating and drinking establishments;

I. Financial, insurance and real estate offices;

J. General retail and convenience sales, except adult bookstores;

K. Medical or dental services including labs;

L. Parking structure or lot;

M. Professional and administrative offices;

N. Public safety and support facilities;

O. Public transportation passenger terminal or taxi stand;

P. Repair services for household and personal items, excluding motorized vehicles;

Q. Sales, grooming and veterinary offices or animal hospitals without outside pens or noise beyond property line;

R. Schools;

S. Single-family residence, provided it is an accessory use and cannot be sold separately;

T. Studios, including art, photography, dance, and music;

U. Vehicle fuel sales. (Ord. 415 § 7.74.020, 2002)

16.22.030 Conditional uses.

The following uses and their accessory uses may be permitted when authorized by the P~~p~~lanning C~~c~~ommission in accordance with the requirements of Chapter 16.60, a

certificate of appropriateness approved by the historic review board, other relevant sections of this title and any conditions imposed by the planning commission:

A. Home occupations (Type II) subject to Chapter 16.46;

B. Retail or wholesale business with not more than fifty (50) percent of the floor area used for the manufacturing, processing or compounding of products in a manner which is clearly incidental to the primary business conducted on the premises. (Ord. 415 § 7.74.030, 2002)

C. Food carts located on the same property and accessory to an established indoor eating and drinking establishment.

1. No structures, product display, or storage shall be located within yard setback or buffering and screening areas.

2. Drive-through units are prohibited.

3. Signage shall comply with AMC 16.44 and Title 17, as applicable, and shall be calculated as a portion of total signage as permitted for the site.

4. Shall be limited to one accessory unit per site/primary business.

5. Food Carts shall not have any internal floor space available to customers.

6. Food Carts shall not exceed 15 -20 feet in length.

16.22.040 Development standards.

A. There is no minimum lot size for lots served by municipal sewer. Minimum lot sizes for lots without municipal sewer shall be as determined by the county sanitarian.

B. There is no minimum lot depth.

C. Minimum lot width shall be fifty (50) feet.

D. No front setbacks shall be permitted, except as necessary to maintain visual clearance areas at unsignalized intersections. No rear or side setbacks are required.

E. No building shall exceed thirty-five (35) feet in height.

F. Parking shall be in accordance with Chapter 16.42 except as specifically exempted by Chapter 16.28, and should be located to the rear of the building. The planning commission may approve parking to the side of the building where parking to the rear is not feasible.

G. Signs shall be in accordance with the requirements of Chapter 16.44, and the City of Aurora Design Guidelines for Historic Properties.

H. Landscaping shall be in accordance with the requirements of the City of Aurora Design Guidelines for Historic Properties, Chapter 16.38, and the Aurora Downtown Improvement Plan.

I. All properties, uses and structures in the historic commercial overlay shall be subject to the requirements of Title 17, Historic Preservation, and any applicable section of this title. (Ord. 415 § 7.74.040, 2002)

16.22.050 Open inventory display.

A. All business, service, repair, processing, storage or merchandise displays shall be conducted wholly within an enclosed building except for the following:

1. Off-street parking or loading;

2. Displays for resale purposes of small merchandise which shall be removed to the interior of the business after business hours;

3. Display, for resale purposes, of live trees, shrubs and other plants.

4. Outdoor seating in relation to permitted eating or drinking establishment, including food carts, subject to 16.34.060.D., and with Historic Review Board review and approval.

B. All open inventory displays shall be maintained, kept clean, and be situated in conformance with all applicable city ordinances. (Ord. 464, 2011; Ord. 415 § 7.60.050, 2002)

Chapter 16.58

SITE DEVELOPMENT REVIEW

Sections:

16.58.010 Purpose.
16.58.020 Applicability of provisions.
16.58.030 Administration and approval process.
16.58.040 Phased development.
16.58.050 Bonding and assurances.
16.58.060 Major modification to approved plans or existing development.
16.58.070 Minor modification(s) to approved plans or existing development.
16.58.080 Application submission requirements.
16.58.090 Site development plans.
16.58.100 Approval standards.

16.58.010 Purpose.

The purpose and intent of site development review is to promote the general welfare by directing attention to site planning, and giving regard to the natural environment and the elements of creative design to assist in conserving and enhancing the appearance of the City. It is in the public interest and necessary for the promotion of the health, safety and welfare, convenience, comfort and prosperity of the citizens of the City:

A. To implement the City's comprehensive plan and other approval standards in this title;

B. To preserve and enhance the natural beauties of the land and of the manmade environment, and enjoyment thereof;

C. To maintain and improve the qualities of and relationships between individual buildings, structures and the physical developments which best contribute to the amenities and attractiveness of an area or neighborhood;

D. To protect and ensure the adequacy and usefulness of public and private developments as they relate to each other and to the neighborhood or area;

E. To ensure that each individual development provides for a quality environment for the citizens utilizing that development as well as the community as a whole.

F. In order to prevent the erosion of natural beauty, the lessening of environmental amenities, the dissipation of both usefulness and function, and to encourage additional landscaping, it is necessary:

G. To stimulate harmonious design for individual buildings, groups of buildings and structures, and other physical developments;

H. To integrate the functions, appearances and locations of buildings and improvements so as to best achieve a balance between private preferences, and the public interest and welfare.

16.58.020 Applicability of provisions.

Site development review shall be applicable to all new developments and major modification of existing developments, as provided in Section 16.58.060 except it shall not apply to:

A. Single-family detached dwellings;

B. Single-family attached dwellings;

C. Manufactured homes on individual lots;

D. A duplex, which is not part of any other development;

E. A triplex, which is not part of any other development;

F. Minor modifications as provided in Section 16.58.070;

G. Any proposed development which has a valid conditional use approved through the conditional use permit application process;

H. Family day care;

I. Home occupation (Type I and Type II);

J. Accessory dwelling unit or accessory structures;

K. Temporary uses;

L. Temporary structures;

M. Telecommunications facilities approved under Section 16.50.060.

16.58.030 Administration and approval process.

A. The applicant for a site development review proposal shall be the recorded owner of the property or an agent authorized in writing by the owner.

B. Applications for site development review shall be processed according to Chapter 16.78.

C. The Planning Commission shall approve, approve with conditions or deny any application for site development review.

16.58.040 Phased development.

A. If requested, the Planning Commission may approve a time schedule for developing a site in phases, but in no case shall the total time period for all phases be greater than three years without reapplying for site development review.

B. In addition to the standards in Section 16.58.100, the following criteria shall be satisfied in order to approve a phased site development review proposal:

1. All underground utilities are constructed during the initial phase of the development and the remaining public facilities are constructed in conjunction with or prior to each phase.

2. The development and occupancy of any phase is not dependent on the use of temporary public facilities. A temporary public facility is any facility not constructed to the applicable city or zoning district standard.

3. The phased development shall not result in requiring the City or other property owners to construct public facilities that were required by an approved development proposal.

16.58.050 Bonding and assurances.

A. On all projects where public improvements are required, the City may:

1. Require a bond in an amount equal to one hundred twenty five (125) percent or other adequate assurances as a condition of approval of the site development plan in order to ensure the completed project is in conformance with the approved plan;

2. Approve and release such bonds upon the completion of the project. A portion of a bond may be released as components of the project are completed;

3. Require a development agreement containing the conditions of approval to be signed by the developer and recorded with Marion County.

B. Landscaping shall be installed prior to issuance of occupancy permits, unless security equal to the cost of the landscaping as determined by the Planning Director is filed with the City, assuring such installation within six months after occupancy.

1. Security may consist of a performance bond payable to the City, cash, certified check or such other assurance of completion approved by the City; and

2. If the installation of the landscaping is not completed within the six-month period, the security may be used by the City to complete the installation.

16.58.060 Major modification to approved plans or existing development.

A. The Planning Director shall determine that a major modification(s) will result if one or more of the following changes are proposed:

1. An increase of ten (10) percent or more in dwelling unit density, or lot coverage for residential development;

2. Any commercial or industrial remodel or expansion that exceeds 25% of the total square footage of the existing structure.

3. An increase in the height of the building(s) by more than twenty (20) percent or an increase to more than thirty-five (35) feet in height in zones where heights greater than thirty-five (35) percent may be permitted;

4. A change in the type and location of access ways and parking areas where off-site traffic would be affected;

5. Any new development, change of occupancy, or commercial or industrial remodel, that will intensify the use of the property by increasing the average daily vehicle trips ~~traffic~~ to the site, or on site parking in accordance with Chapter 16.42 by more than ~~ten~~ twenty-five (25~~10~~) percent above the most traffic intensive use approved for the property. Applicant shall be required to submit to the Planning Director information demonstrating the development, change, or remodel shall not intensify the use of the property by more than ~~ten~~ twenty-five (25~~10~~) percent and is subject to Planning Director review and approval, Chapter 16.42, and the Institute of Transportation Engineers (ITE) Trip Generation Manual (latest edition). Increases of less than 30 vehicle trips per day to a site shall be exempt.

6. A reduction of project amenities where specified in the approved site plan including open space, recreational facilities, screening, and/or landscaping provisions;

7. A modification to the conditions imposed at the time of site development review approval which are not the subject of subdivisions (1) through (7) of this subsection.

B. When a proposed modification to the site development plan is determined to be a major modification, the applicant shall submit a modified site development review application and receive Planning Commission approval prior to any issuance of building permits.

C. Modified site development review applications shall be noticed and processed in accordance with Chapter 16.78.

16.58.070 Minor modification(s) to approved plans or existing development.

A. Any modification which is not within the description of a major modification as provided in Section 16.58.060, may be considered a minor modification.

B. A minor modification shall be approved, approved with conditions or denied following the Planning Director's review based on the finding that no code

provisions will be violated; and the modification is not a major modification.

C. Minor modifications shall processed and noticed in accordance with Chapter 16.78.

16.58.080 Application submission requirements.

A. All applications shall be made on forms provided by the City.

B. All applications shall include a narrative discussing how the proposal conforms to each of the applicable standards.

C. All applications shall include five copies of site development plans containing the information required in Section 16.58.090 and drawn to a standard engineering scale. One copy must be no larger than eleven (11) inches by seventeen (17) inches.

16.58.090 Site development plans.

A. Required information may be combined on one map. Site development plan(s) shall include the following information, as appropriate:

1. A vicinity map showing the proposed site and surrounding properties;

2. The site size and its dimensions;

3. The location, dimensions and names of all existing and platted streets and other public ways and easements on the site and on adjoining properties;

4. The location, dimensions and names of all proposed streets or other public ways and easements on the site;

5. The location and dimension of all proposed:

a. Entrances and exits on the site,

b. Parking and traffic circulation areas,

c. Loading and services areas, where applicable,

d. Pedestrian and bicycle facilities,

e. Utilities;

6. The location, dimensions and setback distances of all:

a. Existing structures, improvements and utilities which are located on adjacent property within twenty-five (25) feet of the site and are permanent in nature, and

b. Proposed structures, improvements, and utilities on the site;

7. Contour lines at two-foot intervals for grades zero to ten (10) percent and five-foot intervals for grades over ten (10) percent for current site grades;

8. A grading plan that includes:

a. The identification and location of the benchmark and corresponding datum,

b. Location and extent to which grading will take place indicating contour lines, slope ratios, and slope stabilization proposals,

c. The location of drainage patterns and drainage courses;

9. The location of any floodplain areas (one hundred (100) year floodplain and floodway);

10. The location of any slopes in excess of twelve (12) percent;

11. The location of any unstable ground (areas subject to slumping, earth slides or movement);

12. The location of any areas having a high seasonal water table within twenty-four (24) inches of the surface for three or more weeks of the year and any wetlands;

13. The location of any areas having a severe soil erosion potential as defined by the soil conservation service;

14. The method for mitigating any adverse impacts upon wetland, riparian or wildfire habitat areas;

15. A landscaping plan including:

a. Location and height of fences, buffers and screening,

b. Location of terraces, decks, shelters, play areas, and common open spaces where applicable,

c. Location of mechanical equipment and garbage enclosures, and applicable screening

d. Location, type and size of plant materials, and

e. Soil conditions, and erosion control measures that will be used;

16. Elevation drawings of all sides of the development with landscaping shown as it will appear both at the time of planting and at maturity.

16.58.100 Approval standards.

The Planning Commission shall make a finding with respect to each of the following criteria when approving, approving with conditions, or denying an application**.** The criteria shall be utilized in reviewing plans, drawings, sketches and other documents required by this subchapter. These criteria are intended to provide a frame of reference for the applicant in the development of site and building plans as well as a method of review for the City. These criteria shall not be regarded as inflexible requirements. They are not intended to discourage creativity, invention and innovation. It shall be the applicant's responsibility to display to the City how the applicable criteria are being best met for the subject property.

A. Provisions of all applicable chapters;

B. Buildings shall be located to preserve topography and natural drainage and shall be located outside areas subject to ground slumping or sliding;

C. Privacy and noise:

1. Buildings shall be oriented in a manner which protects private spaces on adjoining residential properties from view and noise,

2. On-site uses which create noise, lights, or glare shall be buffered from adjoining residential uses;

D. Residential private outdoor areas:

1. Structures which include residential dwelling units shall provide private outdoor areas which are screened from view by adjoining units,

2. Private open space such as a patio or balcony shall be provided and shall be designed for the exclusive use of individual units and shall be at least forty-eight (48) square feet in size with a minimum width dimension of four feet, and

a. Balconies used for entrances or exits shall not be considered as open space except where such exits or entrances are for the sole use of the unit, and

b. Required open space may include roofed or enclosed structures such as a recreation center or covered picnic area,

3. Wherever possible, private outdoor open spaces should be oriented toward the sun;

E. Residential shared outdoor recreation areas:

1. In addition to the requirements of subsection D of this section, usable outdoor recreation space shall be provided in multifamily residential developments for the shared or common use of all the residents in the following amounts:

a. Studio up to and including two-bedroom units, two hundred (200) square feet per unit, and

b. Three or more bedroom units, three hundred (300) square feet per unit,

2. The required recreation space may be provided as follows:

a. It may be all outdoor space, or

b. It may be part outdoor space and part indoor space; for example, an outdoor tennis court, and indoor recreation room,

c. It may be all public or common space,

d. It may be part common space and part private; for example, it could be an outdoor tennis court, indoor recreation room and balconies on each unit, and

e. Where balconies are added to units, the balconies shall not be less than forty-eight (48) square feet,

f. Shared outdoor recreation space shall be readily observable for reasons of crime prevention and safety;

H. Demarcation of public, semipublic, and private spaces;

1. Structures and site improvements shall be designed so that public areas such as streets or public gathering places, semipublic areas and private outdoor areas are clearly defined in order to establish persons having a right to be in the space, in order to provide for crime prevention and to establish maintenance responsibility, and

2. These areas may be defined by a deck, patio, low wall, hedge or draping vine, a trellis or arbor, a change in level or landscaping;

I. Crime prevention and safety:

1. In residential developments, interior laundry and service areas shall be located in a way that they can be observed by others,

2. Mail boxes shall be located in lighted areas having vehicular or pedestrian traffic,

3. Exterior lighting levels shall be selected and the angles shall be oriented towards areas vulnerable to crime, and

4. Light fixtures shall be provided in areas having heavy pedestrian or vehicular traffic and in potentially dangerous areas such as parking lots, stairs, ramps and abrupt grade changes. Fixtures shall be placed at a height so that light patterns overlap at a height of seven feet which is sufficient to illuminate a person;

J. Access and circulation:

1. The number of allowed access points for a development shall be as determined by the City Engineer in accordance with standard engineering practices for City rights-of-way, as determined by Marion County for county rights-of-way, and as determined by the Oregon Department of Transportation for access to Highway 99E,

2. All circulation patterns within a development shall be designed to accommodate emergency vehicles;

K. Public transit:

1. Provisions within the plan shall be included for providing for transit if the development proposal is adjacent to existing or proposed transit route.

2. The requirements for transit facilities shall be based on:

a. The location of other transit facilities in the area,

b. The size and type of the proposal.

3. The following facilities may be required:

a. Bus stop shelters,

b. Turnouts for buses, and

c. Connecting paths to the shelters;

L. All parking and loading areas shall be designed in accordance with the requirements set forth in Chapter 16.42;

M. All landscaping shall be designed in accordance with the requirements set forth in Chapter 16.38;

N. All public improvements shall be designed in accordance with the requirements of Chapter 16.34;

O. All facilities for the handicapped shall be designed in accordance with the requirements set forth in the ADA requirements;

P. All of the provisions and regulations of the underlying zone shall apply; and

Q. All properties located in the historic commercial or historic residential overlay shall be designed in accordance with the requirements set forth in Title 17 of the Aurora Municipal Code. A certificate of appropriateness approved by the historic review board shall be satisfy this criteria.

Title 16
LAND DEVELOPMENT

Chapters:

16.02 Introductory Provisions
16.04 Definitions
16.06 Zoning Map and Boundaries
16.08 Unlisted Uses
16.10 R-1 Residential Low Density Zone
16.12 R-2 Residential Low/Moderate Density Zone
16.13 Accessory Buildings
16.14 C Commercial Zone
16.16 I Industrial Zone
16.18 FH Flood Hazard Zone
16.20 HR Historic Residential Overlay
16.22 HC Historic Commercial Overlay
16.24 A Airport Overlay
16.26 UAR Urban Area Reserve Overlay
16.28 PD Parking District Overlay
16.30 NC Neighborhood Commercial Overlay
16.32 Environmental Performance Standards
16.34 Public Improvement and Utility Standards
16.36 Manufactured Home Regulations
16.38 Landscaping, Screening and Fencing
16.40 Visual Clearance Area
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Chapter 16.02

INTRODUCTORY PROVISIONS

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16.02.010 Short title.

This title shall be known as the "Development Code of the City of Aurora" and shall be referred to herein as "this title."
(Ord. 415 § 7.10.010, 2002)

16.02.020 Purpose.

It is the general purpose of this title to provide the principal means for the implementation of the Aurora comprehensive plan. This title is designed to regulate the division of land and to classify, designate and regulate the location of building, structures and land, and to divide the city into zones to carry out these regulations and provide for their enforcement. Further, it is the purpose of this title to assure that the initial division of land into lots meeting the minimum requirements for subsurface sewage disposal systems established by the state will also accommodate future re-division as public sewer service is extended.

This title also has the following special purposes: to promote coordinated, sound development with consideration for the city's natural environment, amenities, views, and the appearance of its buildings and open spaces; to achieve a balanced and efficient land use pattern, to protect and enhance real property values, to promote safe and uncongested traffic movement, and to avoid uses and development that might be detrimental to the stability and livability of the city; to safeguard and enhance the appearance of the city through the advancement of effective land use, architectural design and site planning; to aid in the rendering of fire and police protection; to provide adequate open spaces for light and air; to prevent undue concentration of population; to facilitate adequate provisions for community utilities and facilities; and, in general, to promote public health, safety, convenience and the general welfare.
(Ord. 415 § 7.10.010, 2002)

16.02.030 Compliance.

Except as otherwise specifically provided by this title, no building or other structure shall be constructed, improved, altered, enlarged or moved, nor shall any use or occupancy of premises within the city be commenced or changed after the effective date of the ordinance codified in this title, except in conformity with conditions prescribed for each of the several zones and general regulations established hereunder. No person shall divide land without first complying with the provisions of this title and the laws of the state of Oregon. It is unlawful for any person to erect, establish, construct, move into, alter, enlarge, use, or cause to be used, any building, structure, improvement or use of premises located in any zone in a manner contrary to the provisions of this title.
(Ord. 415 § 7.10.010, 2002)

16.02.040 Pre-existing approvals.

All development applications approved more than two years prior to the adoption of

the ordinance codified in this title shall be considered void, unless the Pplanning Ceommission determines that the conditions of approval are substantially completed. All development applications approved less than two years prior to the adoption of said ordinance may occur according to such approvals. All development applications received by the city after the adoption of said ordinance shall be subject to review for conformance with the standards under this chapter or as otherwise provided by state law.

(Ord. 415 § 7.10.010, 2002)

16.02.050 Interpretation.

A. An interpretation is a decision which is made under land use standards that require an exercise of policy or legal judgment. By definition, an interpretation does not include approving or denying a building permit issued under clear and objective land use standards or a limited land use decision.

B. Each development and use application and other procedure initiated under this title shall be consistent with the adopted comprehensive plan of the city as implemented by this title and applicable state and federal laws and regulations. All provisions of this title shall be construed in conformity with the adopted comprehensive plan.

C. Where the conditions imposed by any provision of this title are less restrictive than comparable conditions imposed by any other provision of this title or of any other ordinance, or resolution, the most restrictive or that imposing the higher standard shall govern.

D. The Pplanning Ceommission shall have the initial authority and responsibility to interpret all terms, provisions and requirements of this title. All requests for interpretations shall be in writing and on forms provided by the Ceity Rrecorder. Upon receipt of such a request, the commission shall schedule the interpretation as a consideration item at the next regularly scheduled meeting.

If the person making the request disagrees with the commission's interpretation, they may appeal it to the Ceity Ceouncil. The Ceouncil will hear the appeal as a consideration item at the next month's regularly scheduled meeting. The decision of the Ceouncil shall be conclusive upon the parties.

E. When an interpretation is discretionary, notice shall be provided and the interpretation processed in accordance with the quasi-judicial process if specific property is involved or the legislative process if no specific property is involved.

F. The Pplanning Ddirector may develop administrative guidelines to aid in the implementation and interpretation of the provisions of this title.

G. The Ceity Rrecorder shall keep a written record of all interpretations and shall make the record available for review on written request.

H. The Ceity Ceouncil may exempt special events from the provisions of this title. A special event is an activity lasting a total of seven contiguous calendar days or less in a one-year period and approved by the Ceity Ceouncil.

(Ord. 415 § 7.10.010, 2002)

16.02.060 Right-of-way dedications and improvements.

Upon approval of any development permit or any land use approval of any property which abuts or is served by an existing substandard street or roadway, the applicant shall make the necessary right-of-way dedications for the entire frontage of the property to provide for minimum right-of-way widths according to the adopted

Aurora transportation system plan and shall improve the abutting portion of the street or roadway providing access to the property in accordance with the standards in Chapter 16.34.
(Ord. 415 § 7.10.010, 2002)

16.02.070 Fees.

To defray expenses incurred in connection with the processing of applications, report preparation, notice publications, and similar matters, the city may charge fees as established by resolution of the C~~c~~ouncil. The filing of an application shall not be considered complete, nor shall action be taken to process it until the required fee has been paid.
(Ord. 415 § 7.10.010, 2002)

16.02.080 Exceptions for existing lots.

A. All lots hereafter created within the city shall have a minimum width, depth and lot area as shown in the discussion of the zone. It is not the intent of this title to deprive owners of substandard lots the use of their property. Lots of record lawfully created prior to December 27, 1988 may be built on according to the following:

1. The lot has access to municipal sewer service.

2. A lot of record having less width or depth than required by this title may be built upon, provided that either all required setbacks are complied with, or a variance is granted pursuant to Chapter 16.64.

B. Every building constructed hereafter shall maintain the required setbacks. Every part of the required setback shall remain unobstructed, with the following exceptions:

1. A new structure being located between two existing buildings that were sited closer to the street than allowed for this title, may use an average of the depths of the two existing front yards to establish the front setback.

2. If there is a dwelling on one abutting lot with a yard of less depth than the required depth for the zone, the yard for the lot need not exceed a depth one-half way between the depth of the abutting lot and the required yard depth.
(Ord. 462 § 1, 2011; Ord. 415 § 7.10.010, 2002)

16.02.090 Projections into required setbacks.

Ordinary building projections, such as eaves, cornices and chimneys may project into the required yards by not more than twenty-four (24) inches. Uncovered decks and terraces not more than 30 inches above grade may project into a required yard, but shall remain not less than five feet from the property line. Uncovered decks and terraces more than 30 inches above grade shall not be permitted to project into required setbacks.
(Ord. 462 § 1, 2011; Ord. 415 § 7.10.010, 2002)

Chapter 16.04

DEFINITIONS

Sections:

16.04.010 Meaning of words generally.
16.04.020 Meaning of common words.
16.04.030 Meaning of specific words and terms.

16.04.010 Meaning of words generally.

All of the terms used in this title have their commonly accepted, dictionary meaning unless they are specifically defined in this chapter or definition appears in the Oregon Revised Statute, or the context in which they are used clearly indicates to the contrary.

16.04.020 Meaning of common words.

A. All words used in the present tense include the future tense.

B. All words used in the plural include the singular, and all words used in the singular include the plural unless the context clearly indicates to the contrary.

C. All words used in the masculine gender include the feminine gender.

D. The word "shall" is mandatory and the word "may" is permissive.

E. The word "building" includes the word "structure."

F. The phrase "used for" includes the phrases "arranged for," "designed for," "intended for," "maintained for" and "occupied for."

G. The words "land" and "property" are used interchangeably unless the context clearly indicates to the contrary.

H. The term "ordinance" shall be deemed to include the text, the accompanying zoning map and all amendments made hereafter to either.

(Ord. 462 § 1, 2011; Ord. 415 § 7.25.020, 2002)

16.04.030 Meaning of specific words and terms.

(Also see Chapters 16.18, 16.36, 16.44 and 16.50).

As used in this title:

"Abut/abutting" and "adjacent/ adjoining or contiguous lots" means two or more lots joined by a common boundary line or point. (See Illustration 1, Appendix A set out at the end of this title.)

"Accept" means to receive as complete and in compliance with all submittal requirements.

"Access" means the place, means or way by which pedestrians, bicycles and vehicles shall have safe, adequate and usable ingress and egress to a property or use.

"Access, private" means an access not in public ownership or control by means of deed, dedication or easement.

“Accessory building” means a building that meets the standards set out in AMC 16.13.040.

"Accessory structure" means a detached subordinate structure, the use of which is clearly incidental to that of the existing principal building and is located on the same lot with the principal building.

"Accessory use" means a use customarily incidental, appropriate and subordinate to the existing principal use and located on the same lot.

"Acre" means a measure of land containing forty-three thousand five hundred sixty (43,560) square feet.

"Addition" means a modification to an existing building or structure which increases the site coverage or building volume.

"Adjacent" means near or close; property located across the street from a site (see Illustration 1, Appendix A set out at the end of this title).

"Adjoin" See "Abut."

"Adult bookstore" means an establishment having at least ten (10) percent of its merchandise, items, books, magazines, other publications, films or videotapes for sale, rent or viewing on the premises that are distinguished or characterized by their emphasis on matters depicting the sexual activities or anatomical areas.

"Adult motion picture theater" means an establishment used for the presentation of motion pictures or videotapes having as a dominant theme material distinguished or characterized by an emphasis on matter depicting sexual activities or anatomical areas.

"Adverse possession" means the right of an occupant to acquire title to a property by having continuously and openly used and maintained a property over a statutory period of time.

"Agricultural use" means the term includes farming, dairying, pasturage, horticulture, floriculture, viticulture, apiaries, animal and poultry husbandry.

"Alley" means a public way or thoroughfare of not less than sixteen (16) feet which has been dedicated or deeded to the public for public use, and provides a secondary means of access to the back or side of abutting properties that have access on another street.

"Alteration" means a change in construction, use or occupancy. When the term is applied to a change in construction, it is intended to apply to any change, addition or modification in construction. When the term is used in connection with a change of occupancy, it is intended to apply to changes of occupancy from one classification to another or from one division to another per the Oregon Structural Specialty Code.

"Alteration of historic site" means any exterior change or modification, through public or private action, of any cultural resource or of any property located within the historic districts, including, but not limited to: demolition, relocation or exterior changes to or modification of structure, architectural details or visual characteristics such as building materials, paint, color and surface texture, grading, surface paving, new building materials, cutting or removal of trees and other natural features; disturbance of archeological sites or areas; and the placement or removal of any exterior objects such as signs, plaques, light fixtures, street furniture, walls, fences, steps, plantings and landscape accessories affecting the exterior visual qualities of the property.

“Alteration, Structural”. "Structural alteration" means any change or repair which would tend to prolong the life of the supporting members of a building or structure, such as alteration of bearing walls, foundation, columns, beams or girders. In addition, any change in the external dimensions of the building shall be considered a structural alteration.

"Amendment" means a change in the wording, context or substance of this title or the comprehensive plan, or a change in the boundaries of a zone on the zoning map or the boundaries of a designation on the comprehensive plan map.

"Animal hospital" means any building or portion thereof designed for the care, observation or treatment of animals.

"Appeal" means a request that a final decision by the initial hearing authority be considered by a higher authority.

"Applicant" means the owner of the affected property, or such owner’s authorized representative.

"Approval authority" means the P~~p~~lanning D~~d~~irector, the P~~p~~lanning C~~c~~ommission, or the City C~~c~~ouncil, depending on the context in which the term is used.

"Automobile and truck sales area" means an open area, other than a street, used for the display, sale of, or rental of new or used motor vehicles or trailers and where no repair work is done except minor incidental repair of motor vehicles or trailers to be displayed, sold or rented on the premises.

"Automobile service station" means any building or land area used, or intended to be used, for the retail sale of vehicular fuels and may include, as an accessory use, the sale and installation of lubricants, tires, batteries and similar accessories. (Note: The phrase "as an accessory use" would not allow a business that, for example, consists solely of tire sales and service to locate in a zone that listed only automobile service station as a permitted or conditional use -- see "Accessory use" definition).

"Auto wrecker" means any person who wrecks, dismantles, permanently disassembles or substantially alters the form of any motor vehicle.

"Auto wrecking yard" means any land, building or structure, used for the wrecking or storing in the open of such motor vehicles or the parts thereof, or sale of used automobile parts, or for the storage, dismantling or abandonment of junk, obsolete automobiles, trailers, trucks, machinery or parts thereof and are not being restored to operation. Two or more dismantled, obsolete, inoperable motor vehicles on one lot, or the parts thereof, shall constitute a wrecking yard. Also see "Junkyard."

"Awning" means a roof-like cover that projects from the wall of a building for the purpose of shielding a doorway or window from the elements. (Note: If the awning is made of canvas and moveable, it may project into the setback. If it is permanently attached to the building, all setbacks must be measured from the end of the awning.)

"Basement" means any floor level below the first story in a building, except that a floor level in a building having only one floor level shall be classified as a basement, unless such floor level qualifies as a first story as defined herein. (See Illustration 2, Appendix A set out at the end of this title.)

"Bed and breakfast inn" means a use subordinate to the principal use of a single-family dwelling and involving not more than three bedrooms, which provides temporary overnight lodging and a morning meal in return for compensation. The owner or manager must reside onsite. The building design must be compatible with the residential neighborhood and be inspected by both the fire and health departments.

"Berm" means a manmade mound of earth, two to six feet high with a 2:1 slope (see Illustration 6, Appendix A set out at the end of this title), used to deflect sound or to buffer incompatible areas.

"Bike lane, path or way" means any trail, path or part of a highway, shoulder, sidewalk or any other travel way specifically signed and/or marked for bicycle travel.

"Bond" means any form of security including a cash deposit surety bond, collateral, property or instrument of credit in an amount and form satisfactory to the city.

"Buffer" means a landscaped area providing separation between uses or as a shield to block noise, lights and other nuisances.

"Building" means any structure greater than two hundred (200) square feet or ten (10) feet in height, having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, foods or materials of any kind or nature.

"Building envelope" means that portion of a lot or development site exclusive of the areas required for front, side and rear yards and other required open spaces and which is

available for siting and constructing a building or buildings.

"Building height" means the vertical distance from the average elevation of the finished grade within twenty (20) feet of the building to the highest point of the structure (see Illustration 2, Appendix A set out at the end of this title).

"Building line" means a line parallel to the street right-of-way, at a distance equal to the depth of the required front yard.

"Building official" means a person duly authorized by a municipality and the state of Oregon with responsibility for the administration and enforcement of the State Building Code in the municipality, or his or her duly authorized representative.

"Building, principal" means the structure within which is conducted the principal use of the lot.

"Building type" means:

1. Nonresidential: buildings not designed for use as human living quarters.

a. Detached: a single main building, free-standing and structurally separated from other buildings.

b. Attached: two or more main buildings placed side by side so that some structural parts are touching one another, located on a lot or development site or portion thereof.

2. Residential: see "Dwelling types."

"Caretaker dwelling" means a single-family detached dwelling for housing the caretaker of an approved commercial development and located on the same lot as the approved commercial development.

"Carport" means a covered shelter for an automobile open on two or more sides. A carport shall not attach two single-family dwellings or create duplexes, or multifamily dwellings except when the carport contains common building structural parts designed to be an integral part of a continuous structure.

"Certificate of appropriateness" means the permit granted by the Aurora Hhistoric Rreview Bboard to alter a designated landmark.

"Church" means a structure or set of structures, the principal purpose which is for persons to regularly assemble for worship, and which has legally been recognized by the state of Oregon.

"City" means the city of Aurora, Oregon.

"City recorder" means the person designated by the Cceity Cccouncil to perform the duties of Cceity Rrecorder for the city of Aurora, Oregon.

"Commercial use" means establishments or places engaged in the distribution and sale or rental of goods and the provision of services.

"Commission" means the Pplanning Cccommission of the city of Aurora, Oregon.

"Community building" means a publicly owned and operated facility used for meetings, recreation or education.

"Complete" means every item is included without omissions or deficiencies.

"Complex" means a structure or group of structures developed on one lot of record.

"Comprehensive plan" means the coordinated land use map and policy statement of the governing body of the city as acknowledged by the state of Oregon.

"Conditional use" means a use which may be approved, denied or approved with conditions by the approval authority following a public hearing, upon findings by the authority that the approval criteria have been met or will be met upon satisfaction of conditions of approval.

"Conditional use permit" means a permit issued by the city, following the procedures in Chapter 16.60, which states that the use meets all of the conditions placed on it by the commission and this title.

Contiguous. See "Abut/abutting."

"Convenience store" means one-story retail store containing less than two thousand five hundred (2,500) square feet of gross floor area, designed and stocked to sell primarily food, beverages, and other household supplies to customers purchasing only a relatively few items (in contrast to a "supermarket") for example, "7-11" and "Plaid Pantry" stores.

"Council" means the city council of Aurora, Oregon.

"Courtyard" means a landscaped area open and unobstructed to the sky, located at or above grade level on a lot, and bounded on three or more sides by walls of a building.

"Coverage, building or lot" means the percentage of the total lot area covered by buildings.

"Cultural resources" means buildings, structures, signs, sites, districts and objects of historic, architectural, archeological or aesthetic significance to the citizens of the city, to the state of Oregon or the nation.

"Day care" means care provided to not more than twelve (12) unrelated children or five unrelated adults in a residential dwelling certified by the state of Oregon during a period not to exceed twelve (12) hours in any twenty-four (24) hour day.

"Day care facility" means any facility that provides day care to children, including a child day care center, group day care home, home of a family day care provider, including those known under a descriptive name such as nursery school, preschool or kindergarten.

"Days" means calendar days, unless working days are specified, which shall mean Monday through Friday, exclusive of official city holidays.

“Deck” means a flat floored, roofless area adjoining a building and adapted especially for outdoor dining and living.

"Declarant" means the person who files a declaration as required under ORS 92.075 to subdivide or partition property.

"Declaration" means the instrument described in ORS 92.075 by which the subdivision or partition plat was created.

"Dedication" means the donation of property by its owner to the city for any public purpose (i.e., the construction or widening of a street).

"Demolish" means to raze, destroy, dismantle, deface or in any other manner cause partial or total ruin of a designated structure or resource.

"De novo" means a new hearing, usually without consideration of any previous hearing testimony.

"Density" means the number of dwelling units allowed on a parcel of land, frequently expressed as the number of units per acre.

"Density, gross" means including all of the land within the boundaries of the lot in the computation of density.

"Density, net" means excluding from the computation those lands necessary for streets and underground utilities, as well as easements, floodways and steep slopes.

"Designated landmark" means any cultural resource that has special historical, cultural, aesthetic or architectural character, interest or value as part of the development, heritage or history of the city, the state of Oregon or the nation, and has been designated pursuant to this title.

"Designated landmark site" means a parcel on which a cultural resource is situated and any abutting parcel constituting part of the premises on which a cultural resource is situated and which has been designated a landmark site under the provisions of this title.

"Development" means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, the division of parcels,

mining, dredging, filling, grading, paving, excavation, or drilling operations that makes a material change in the use or appearance of a structure or land and including partitions and subdivisions as provided in Oregon Revised Statutes 92 and 227.215.

"Development permit" refers to any document or permit that authorizes an applicant to commence construction or development activities.

"Development site" means the lot or combination of lots upon which development occurs.

"Drainageway" means undeveloped land inundated during a twenty-five (25) year storm with a peak flow of at least five cubic feet per second and conveyed, at least in part, by identifiable channels that either drain to the Aurora floodway directly or after flowing through other drainageways, channels, creeks or floodplain.

"Dwelling Types" (See Illustration 3, Appendix A set out at the end of this title).

1. Accessory dwelling unit: a second dwelling unit created on lot with a house, attached house, or manufactured home. The second unit is created auxiliary to, and is always smaller than the house, attached house, or manufactured home.

2. Single-family, detached: one dwelling unit, structurally separated from any other dwelling on the same lot.

3. Single-family, attached: two dwelling units, each located on a separate lot, sharing a fire resistant common wall which follows the property line.

4. Two-family or duplex: a structure on a single lot containing two dwelling units connected by either a fire resistant common wall, unpierced from ground to roof, or an unpierced ceiling and floor.

5. Three-family or triplex: a structure on a single lot containing three dwelling units connected by either a fire resistant common wall, unpierced from ground to roof, or an unpierced ceiling and floor.

6. Townhouse: a dwelling unit, located in a row of three or more, with each having its own front and rear access to the outside, and each being connected to the other by one or more fire resistant common walls, unpierced from ground to roof.

7. Zero lot line: a single detached dwelling unit located with a zero foot setback from one lot line.

"Dwelling unit" means any building or portion thereof which contains living facilities, including provisions for sleeping, eating, cooking and sanitation as required by the Oregon Structural Specialty Code, designed for occupancy by only one family.

"Easement" means the granting, by a recorded interest, of one or more property rights by the owner to the public, another person or entity.

“Eave” means the edge of a roof, usually projecting beyond any side of a building and forming an overhanging drip for water or weather protection.

"Employees" shall include all persons, including proprietors, working on the premises during the largest shift.

"Erect" means the act of placing or affixing a component of a structure upon the ground or upon another such component.

"Exterior architectural feature" means the architectural elements embodying style, design, general arrangement and components of all the outer surfaces of a building, including, but not limited to, the kind, color, and texture of building materials and the type and style of all windows, doors, lights, signs and other fixtures appurtenant to such improvement.

“Façade” means the portion of the exterior of a building, usually the front but sometimes the side and rear, that is used to meet architectural treatment details and that sets the tone for the rest of the building.

"Family" means an individual or two or more persons related by genetics, adoption or marriage or a group of five or fewer persons (excluding domestic employees) who are not related by genetics, adoption or marriage.

"Fence, sight-obscuring" means a fence or wall constructed in such a way as to obstruct vision.

"Final action," "final decision" or "final order" means the date upon which a determination has been reduced to writing and signed by the approval authority or the final resolution of all City, State, and Federal appeals, whichever is later.

“Finish Material, Exterior” means the siding and color of the exterior walls of any structure.

"Findings" means written statements of fact, conclusions and determinations based on the evidence in relation to the criteria and accepted by the approval authority in support of their decision.

"Flag lot" means a lot which has access to a right-of-way by means of a narrow strip of land. The lot area for a flag lot shall comply with the lot area requirements of the applicable zoning district and shall be provided entirely within the building site area exclusive of any accessway. (See Illustration 4, Appendix A set out at the end of this title.)

"Flood fringe" means the area bordering the floodway and within the floodplain that acts as a reservoir of flood waters (see Illustration 5, Appendix A set out at the end of this title).

"Flood Insurance Rate Map (FIRM)" means the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable.

"Flood, one hundred (100) year or base" means a flood with a one-percent chance of occurrence in any given year. It is mapped by the Army Corps of Engineers and is used by the Federal Emergency Management Agency and the city for the purposes of regulating development within flood boundaries.

"Floodplain" means the combined area of the floodway and the flood fringe as defined herein (see Illustration 5, Appendix A set out at the end of this title).

"Floodway" means the minimum area necessary for the passage of floodwaters, which must be reserved to discharge the one hundred (100) year flood without increasing the water surface elevation more than one foot (see Illustration 5, Appendix A set out at the end of this title).

"Floor area" means the area included within the surrounding exterior walls of a building or portion thereof, exclusive of vent shafts and courts. The floor area of a building or portion thereof, not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the roof or floor above.

"Frontage" means the side of a lot abutting a street; the length of the front lot line (see Illustration 7, Appendix A set out at the end of this title).

Front Lot Line. See "Lot line, front."

Garage, Private. "Private garage" means a building or portion of a building in which motor vehicles used by the tenant of the structure on the premises are stored or kept.

Garage, Public. "Public garage" means a structure that provides facilities for the repair of motor vehicles including body and fender repair, painting, rebuilding, reconditioning, upholstering, or other vehicle maintenance or repair.

"Grade" means the degree or rise of a sloping surface (see Illustration 6, Appendix A set out at the end of this title).

"Grade, finish" means the final elevation of the ground surface after development.

Grandfather Clause. See "Nonconforming use."

"Gross acres" means all of the land area included in the legal description of the property.

"Guest house" means an accessory building used for the purpose of providing temporary living accommodations and having no cooking facilities.

"Hedge, sight-obscuring" means an evergreen barrier grown for the purpose of obstructing vision which shall be at least two feet tall at the time of planting, and capable of obscuring at least eighty (80) percent of the view between two and six feet from the ground within five years of planting.

"Height" means the vertical distance of a structure measured from the average elevation of the finished grade within twenty (20) feet of the structure to the highest point of the structure. Projections such as chimneys, spires, domes, elevator shaft housings, towers excluding television dish receivers, aerials, flag poles and other similar objects not used for human occupancy, are not subject to the building height limitations of this title if located outside the airport overlay zone.

"Historic district" means the land area included in the Aurora Colony Historic District as designated on the National Register of Historic Places, and shown on the city zoning map as the historic zone.

"Home occupation" means a lawful income-producing activity conducted in a dwelling while maintaining the residential character; having no outward appearance of a business and no infringement on the rights of neighboring residents (see Chapter 16.46). Home occupation does not include activity conducted by a resident of the dwelling acting as an employee of a business located outside of the residence.

"Homeowners association" means an incorporated, nonprofit organization operating under recorded land agreements through which each lot owner of a planned development or other described land area is automatically subject to a charge for a proportionate share of the expenses for the organization’s activities, such as maintaining a common property.

"Implementing ordinance" means an ordinance adopted to carry out the comprehensive plan, including, but not limited, to the provisions of this title.

“Impervious surface” means those hard-surface areas located upon real property which either prevent or retard saturation of water into the land surface, as existed under natural conditions pre-existent to development, or cause water to run off the land surface in greater quantities or at an increased rate of flow from that present under natural conditions pre-existent to development. Common impervious surfaces include, but are not limited to, roof tops, concrete, asphalt sidewalks, walkways, patio areas, driveways, parking lots, storage areas, streets, roads, and graveled, oiled, macadam or other surfaces which similarly impact the natural saturation or runoff patterns which existed prior to development.

"Improvement" means any building, structure, place parking facility, fence, gate, wall, work of art or other object constituting a physical improvement of real property or any part of such improvement of real property or any part of such improvement.

"Industrial park" means a large tract of land that has been planned as an integrated facility for a number of individual industrial uses, with special attention given to traffic circulation, parking, utility needs, landscaping and compatibility of uses.

"Industrial use" means any use of land, structure or natural resources involving the manufacturing, processing or assembly of

semi-finished or finished products from raw materials, or similar treatment or packaging of previously prepared materials.

"Junk" means old discarded or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste or junked, dismantled, wrecked, scrapped or ruined motor vehicles or motor vehicle parts, iron, steel or other old or scrap ferrous or nonferrous materials, metal or nonmetal materials.

"Junkyard" means any land area, building or part thereof used for the storage, collection, processing, sale, purchase or abandonment of two or more unregistered and inoperable motor vehicles, wastepaper, scrap metal, discarded goods, machinery or other materials defined as "junk."

"Kennel" means any premise where five or more dogs, cats or other small animals are kept for the business of boarding, training, propagation or sale.

"Land form alteration" means any manmade change to improved or unimproved real estate, including but not limited to, the addition of buildings or other structures, mining, quarrying, dredging, filling, grading, earthwork construction, stockpiling of rock, sand, dirt or gravel or other earth material, paving, excavation or drilling operations.

"Landscaping" means ground cover, trees, grass, bushes, flowers, garden areas and any arrangement of fountains, patios, decks, street furniture and ornamental concrete or stonework areas.

"Legislative amendment" means a change to the text of this title, to the comprehensive plan text, to the city plan map or to the city zoning map that is general in nature or large in size of area, and, therefore, affects a significant number of properties and owners. If there are questions as to whether a specific request for a land use review is quasi-judicial or legislative, the decision will be made by the city attorney. The decision will be based on current law and legal precedent.

"Loading space" means an off-street space or berth on the same lot or parcel, with a building or use, or contiguous to a group of buildings or uses, for the temporary parking of a vehicle for loading or unloading persons, merchandise or materials, and which space or berth abuts upon a street, alley or other appropriate means of access and egress.

"Lot" means a parcel or tract of land sufficient in size to meet minimum zoning requirements for use, coverage, area, yards and open space, with frontage on a public street. Abutting property under the same ownership, whether in a platted lot or property described by metes and bounds, shall be considered part of the same lot (see Illustration 7, Appendix A set out at the end of this title).

"Lot area" means the computed area contained within the lot lines, exclusive of street or alley rights-of-way and easements of access to other property.

"Lot, corner" means a lot with two adjacent sides abutting streets other than alleys.

"Lot coverage" means the percent of a lot area covered by the horizontal projection of any structures or buildings.

"Lot depth" means the average distance between the front lot line and the rear lot line (see Illustration 4, Appendix A set out at the end of this title).

"Lot, interior" means a lot other than a corner lot, with frontage only on one street (see Illustration 4, Appendix A set out at the end of this title).

"Lot line" means any property line bounding a lot (see Illustration 4, Appendix A set out at the end of this title).

Lot Line Adjustment. See "Property line adjustment."

“Lot Line, Front”. "Front lot line" means, in the case of an interior lot, a property line which abuts the street; in the case of a corner, through lot or flag lot, the shortest of the two property lines which abut the street or access way or from which primary vehicular access to the property is gained. (See Illustration 7, Appendix A set out at the end of this title.)

“Lot Line, Rear”. "Rear lot line" means a lot line opposite to and most distant from the front lot line; or, in the case of an irregular or triangular-shaped lot, a line ten (10) feet long drawn entirely within the lot, parallel to and at a maximum distance from the front lot line.

“Lot Line, Side”. "Side lot line" means any lot boundary not a front or rear property line.

"Lot of record" means a legally created lot meeting all applicable regulations in effect at the time of creation.

"Lot, through or double-frontage lot" means an interior lot having frontage on two parallel streets (see Illustration 4, Appendix A set out at the end of this title).

"Lot width" means the average horizontal distance between the side lot lines.

"Major impact utility" means services and utilities which have a substantial visual impact on an area. Typical uses are electrical and gas distribution substations, radio microwave, telecommunications towers, telephone transmitters and cable television receivers and transmitters.

"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 residential purposes and that was constructed in accordance with federal manufactured housing construction and safety standards regulations in effect at the time of construction.

"Manufactured home park" means any place where four or more manufactured homes are located on a lot tract, or parcel of land under the same ownership, the primary purpose of which is to rent or lease space or keep space for rent or lease to any person for a charge or fee paid or to be paid for the rental or lease or use of facilities or to offer space free in connection with securing the trade or patronage of such person.

"Mining and/or quarrying" means premises from which any rock, sand, gravel, topsoil, clay, mud, peat or mineral is removed or excavated for sale, as an industrial or commercial operation, and exclusive of excavating and grading for street and roads and the process of grading a lot preparatory to the construction of a building for which a permit has been issued by a public agency.

"Minor impact utility" means services which have minimal off-site visual impact.

"Modular home" means a structure constructed in accordance with federal requirements for modular construction including compliance with Oregon Structural Specialty Codes.

"Net acres" means the total amount of land which can be used for development.

"Nonconforming lot" means a lot which was lawful in terms of size, area, dimensions or location, prior to the adoption, revision or amendment of the zoning ordinance, but which now fails to conform to the requirements of the zoning district.

"Nonconforming sign" means any sign lawfully existing on the effective date of an ordinance, or amendment thereto, which renders such sign nonconforming because it does not conform to all the standards and regulations.

"Nonconforming structure" means a structure the size, dimensions or location of which were lawful prior to the adoption, revision or amendment to a zoning

ordinance, but which fails to meet the present requirements of the zoning district.

"Nonconforming use" means an activity lawfully existing prior to the effective date of the ordinance codified in this title, or any amendment thereto, but which fails to meet the current standards and requirements of the zone. (Note: In the case of nonconformance, the key phrase is "...lawfully existing prior to the effective date of the ordinance codified in this title or any amendment..." which make the use or the lot, sign or structure nonconforming. These are frequently referred to as being "grandfathered in," meaning that they are allowed to remain under the conditions set by said ordinance (see Chapter 16.62).

“Non-remonstrance Agreement” means a written agreement executed by a property owner or a property owner's predecessor in title that waives the right of a property owner to file a remonstrance and thereby potentially delay the formation of a Local Improvement District (LID). Such agreements are typically entered into as a condition of development or improvement that impacts or connects to a substandard public facility in lieu of requiring immediate improvement of the substandard facility.

"Occupancy permit" means a required permit allowing occupancy of a building after it has been determined that all requirements are met.

"On-the-record" means an appeal procedure in which the decision is based on the record established at the initial hearing. New information may be added only under certain limited circumstances.

"Open space" means an area of land or water essentially unimproved and set aside, dedicated or reserved for public or private use, or for the use of owners and occupants of land adjoining or neighboring such open space.

"Owner" means any person, agent, firm or corporation having a legal or equitable interest in the property.

Owner, Contract Purchaser Deemed. A person or persons purchasing property under contract, for the purposes of this title shall be deemed to be the owner or owners of the property covered by the contract. The P~~p~~lanning C~~c~~ommission or the City C~~c~~ouncil may require satisfactory evidence of such contract of purchase.

"Parcel" means a unit of land that is created by partitioning land.

"Park and recreation facility" means any land set apart and devoted to the purposes of pleasure, recreation, ornament, light and air for the general public.

"Parking space" means an area within a private or public parking area, building or structure meeting the specific dimensional requirements and designated as parking for one vehicle.

"Partitioning land" means division of 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. Partitioning does not include divisions of land resulting from lien foreclosures nor the adjustment of a property line by the relocation of a common boundary when no new parcel is thereby created.

"Permit" means an official document or certificate, issued by the city or its designated official, authorizing performance of a specified activity.

"Permitted use" means a use which is allowed outright, but is subject to all applicable provisions of this title.

"Person" means an individual, corporation, governmental agency, official advisory committee of the city, business trust, estate, trust, partnership, association,

two or more people having a joint or common interest or any other legal entity.

"Planning Dedirector" means the person designated by the Ceity Ceouncil as responsible for planning activities for the city.

"Plat" includes a final subdivision plat, replat, or partition plat.

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

“Patio” means an unenclosed, uncovered recreation area adjoining a building and adapted especially for outdoor dining and living.

“Porch” means a covered, enclosed or unenclosed, entrance to a vestibule or doorway.

"Potential future flooding" means condition that exists when a property elevation is at or below the established one hundred (100) year flood plain.

"Preservation" means the identification, study, protection, restoration, rehabilitation or enhancement of cultural resources.

"Principal building" means the building on a lot that serves the primary purpose for that lot and that is built for the support, shelter, protection or enclosure of any persons, animals or property of any kind. The principal building shall conform to the stated uses within the zoning district and all other restrictions of this title.

"Professional office" means the office of a member of a recognized profession maintained for the conduct of that profession.

"Property line" means the division line between two units of land.

"Property line adjustment" means the relocation of a common property line between two abutting properties which does not result in the creation of an additional lot, or the creation of a substandard lot.

"Public support facilities" include services, buildings, and structures necessary to support uses allowed outright in the underlying zone and operated by a governmental agency or public utility. Such facilities may include, but not be limited to, fire stations, libraries, electrical substations, water and sewer distribution facilities and storage, power lines and poles, phone booths, fire hydrants, as well as bus stops, benches and mailboxes which are necessary to support principal development. Such facilities shall not include commercial plants.

"Quasi-judicial amendment" means a change to the text of this title, the comprehensive plan text, the city plan map or the city zoning map that is specific in nature or involves only a small number of properties or owners. If there are questions as to whether a specific request for a land use review is quasi-judicial or legislative, the decision will be made by the city attorney. The decision will be based on current law and legal precedent.

“Replat” means the act of replatting the lots, parcels, and easements in a recorded subdivision or partition plat to achieve a reconfiguration of the existing subdivision partition plat or to increase or decrease the number of lots in the subdivision.

"Receipt" means an acknowledgment of submittal.

"Recreational vehicle" means a vacation trailer or other unit with or without motor power which is designed for human occupancy and to be used temporarily for recreational purposes and is identified as a recreational vehicle by the manufacturer.

"Recreational vehicle park" means any property developed for the purpose of parking or storing recreational vehicles on a temporary or transient bases, wherein two or more of such units are placed within five

hundred (500) feet of each other on any lot, tract or parcel of land under one ownership.

“Remonstrance Agreement” means a formal written objection to formation of a Local Improvement District (LID) filed by an owner of property within the proposed LID pursuant to ORS 223.117 that can, in conjunction with other formal written objections from two-thirds or more of the affected property owners, delay formation of an LID.

"Remodel" means an internal or external modification to an existing building or structure which does not increase the site coverage.

"Residence" means a structure designed for occupancy as living quarters for one or more persons.

"Residential care facility" means any facility licensed or registered by or under the authority of the Department of Human Resources as defined in ORS 443.400 to 443.460 or licensed by the Children’s Services Division which provides residential care for six to fifteen (15) individuals who need not be related, excluding required staff persons.

"Residential care home" means any home licensed by or under the authority of the Department of Human Resources as defined in ORS 443.400, a residential home registered under ORS 443.480 to 443.500 or an adult foster home licensed under ORS 443.505 to 443.825 which provides residential care for five or fewer individuals who need not be related, excluding required staff persons.

"Reserve strip" means a strip of property usually one foot in width overlaying a dedicated street which is reserved to the city for control of access until such time as additional right-of-way is accepted by the city for continuation or widening of the street.

"Residential use" means a structure used for human habitation by one or more persons.

"Right-of-way" means a strip of land occupied or intended to be occupied by a street, crosswalk, pedestrian and bike paths, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, or other special use. The usage of the term "right-of-way for land division purposes" means that every right-of-way hereafter established and shown on a plat or map is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels.

"Roadway" means the portion of the street right-of-way developed for vehicular traffic.

"School" means any public, elementary, junior high, high school, college, or comparable private school.

"Screening" means a method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, berms or densely planted vegetation.

"Setback" means the minimum allowable distance between the property line and any structural projection. If there is an access easement or private street on the lot or parcel, "setback" shall mean the minimum allowable distance between the access easement or property street and any structural projection. Structural projections include fireplaces, covered porches, balconies, canopies and similar features. Cornices, eaves, belt courses, sills or similar architectural features may extend or project into a required setback not more than twenty-four (24) inches.

"SHPO" means the State Historic Preservation Officer.

"Sign" means any lettered or pictorial device designed to inform or attract

attention, and which shall comply with Chapter 16.44.

"SSC" means Structural Specialty Code.

"Steep slope" means a slope with a gradient of twenty-five (25) percent or greater (see "Grade").

"Story" means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement or unused underfloor space is more than six feet above grade as defined in this section for more than fifty (50) percent of the total perimeter or is more than twelve (12) feet above grade as defined in this section at any point, such basement or unused underfloor space shall be considered as a story.

Story, First. "First story" means the lowest story in a building which qualifies as a story, as defined in this section, except that a floor level in a building having only one floor shall be classified as a first story, provided such floor level is not more than four feet below grade, as defined in this section, for more than fifty (50) percent of the total perimeter, or more than eight feet below grade, as defined in this section, at any point.

Story, Half. "Half story" means a story under a gable or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than two feet above the floor of such story. If the finished floor level directly above a basement or unused underfloor space is not more than six feet above grade, as defined in this section, for more than fifty (50) percent of the total perimeter or is not more than twelve (12) feet above grade as defined in this section, at any point, such basement or unused underfloor space shall be considered as a half story.

"Street" or "road" means a public or private way affording the principal means of access to abutting property, excluding a private way that is created to provide ingress or egress to such land in conjunction with the use of such land for forestry, mining or agricultural purposes.

Street Classifications.

1. Alley: a public way or thoroughfare of not less than sixteen (16) feet in width which has been dedicated or deeded to the public for public use, and provides a secondary means of access to the back or side of abutting properties that have access on another street.

2. Local: a minor public street whose function is to provide access to immediately adjacent property.

3. Arterial: a major public street carrying large amounts of traffic and so designated on the official city street map.

4. Collector: a public street carrying traffic between minor and arterial streets.

5. Cul-De-Sac: a street that terminates in a vehicular turnaround.

6. Half street: the dedication of right-of-way equal to one-half the planned width of a public street and running the length of the property frontage. The same term can be applied to street improvements made to the center line of the street. (Note: A property owner cannot be required to dedicate more than half of the right-of-way width.)

Street, Private. "Private street" means an access way which is under private ownership.

Structural alteration. See "Alteration, structural."

"Structure" means that which is built or constructed, erected, or air-inflated, permanent or temporary; an edifice or building of any kind or any piece of work artificially built up or composed of parts

joined together in some definite manner and which requires location on the ground or which is attached to something having a location on the ground. Among other things, structure includes buildings, walls, signs, billboards and poster panels.

"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.

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

"Substantial" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the replacement value of the structure.

"Unstable soil" means soil types which pose severe limitations upon development due to potential flooding, structural instability, or inadequate sewage waste disposal, as defined by the U.S. Soil Conservation Service, and include Cloquato silt loam (Cm), concord silt loam (Co), terrace escarpment (Te), Wapato silty clay loam (Wc) and Newberg fine sandy loam (Nu).

"Urban growth boundary" means an adopted line used as a planning guideline to designate the future urban area of the city and indicating areas into which city services will be extended upon annexation to the city.

"Use" means the primary purpose for which land or a structure is designed, arranged or intended, or for which it is occupied or maintained.

"Variance" means a grant of relief from the standards of this title when it can be shown that, due to unusual conditions related to a piece of property, strict application of the title would result in an unnecessary hardship. (See Chapter 16.64.)

"Visual clearance area" means a triangular area on a lot at the intersection of two streets or a street and an alley, driveway, other point of vehicular access or railroad, two sides of which are lot lines measured from the corner intersection of the lot lines to a distance of twenty (20) feet. The third side of the triangle is a line across the corner of the lot adjoining the ends of the other two sides. Where the lot lines at intersections have rounded corners, the lot lines will be extended in a straight line to a point of intersection. The visual clearance area shall not contain visual obstructions.

"Visual obstruction" means any fence, hedge, tree, shrub, device, wall or structure between the elevations of three and one-half feet [forty-two (42) inches] and eight feet above the adjacent curb height or above the elevation of gutter line of street edge where there is no curb, as determined by the P~~p~~lanning D~~d~~irector, and so located at a street, drive or alley intersection as to limit the visibility of pedestrians or persons in motor vehicles on such streets, drives or alleys.

"Wetlands" means uncultivated land often called swamp, marsh or bog, that exhibits all of the following characteristics:

1. The land supports hydrophytic vegetation. This occurs when more than fifty (50) percent of the dominant species from all strata are classified as wetland species;

2. The land has hydric soils. Hydric soils are soils that are saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part of the soil profile;

3. The land has wetland hydrology. Wetland hydrology is permanent or periodic inundation, or soil saturation for a significant period (at least one week) during the growing season.

"Yard" means an open space unobstructed from the ground upward except as otherwise provided in this title. (See Illustration 9, Appendix A set out at the end of this title.)

Yard, Corner Side. "Corner side yard" means a yard extending from the front yard to the rear lot line on the street side of a corner lot.

"Yard, exterior side" means a yard extending from the front yard to the rear lot line on the street side of a corner lot.

“Yard, Front”. "Front yard" means a yard extending across the full width of the lot, with a depth equal to the minimum horizontal distance between the front lot line and a line drawn parallel to it at the nearest point of the building.

"Yard, rear or back" means a yard between side lot lines and measured horizontally at right angles to the rear lot line from the rear lot line to the nearest point of the foundation of a building.

“Yard, Side”. "Side yard" means a yard between the main building and side lot line, extending from the front yard to the rear yard and measured horizontally from the nearest point of the side lot line to the nearest point of the principal building.

"Zoning district" means an area of land within the Aurora city limits designated for specific types of permitted developments subject to the development requirements of that district.

(Ord. 462 § 1, 2011; Ord. 455, § 1, 2010; Ord. 419 § 18A, 2002; Ord. 415 § 7.25.030, 2002)

Chapter 16.06

ZONING MAP AND BOUNDARIES

Sections:

16.06.010 Zones established.
16.06.020 Classification and density.
16.06.030 Zoning map.
16.06.040 Determination of zoning boundaries.

16.06.010 Zones established.

To carry out the purpose and the provisions of this title, the following zones and overlays are established:

ABBREVIATED DESIGNATION	DESCRIPTION
RESIDENTIAL ZONES	
R-1----------.	Low Density Residential
R-2----------	Moderate Density Residential
COMMERCIAL ZONES	
C----------	General Commercial
INDUSTRIAL ZONES	
I----------	General Industrial
SPECIAL ZONES	
FH----------	Flood Hazard
OVERLAYS	
A----------	Airport
HC----------	Historic Commercial
HR----------	Historic Residential
NC----------	Neighborhood Commercial
UAR----------	Urban Area Reserve
PD----------	Parking District

16.06.020 Classification and density.

All areas within the corporate limits of the city are divided into zoning districts. The use of each tract and ownership of land within the corporate limits is limited to those uses permitted by the zoning classification applicable to each such tract as designated on the city of Aurora zoning map. Density shall generally be as follows:

A. R-1 Low residential density: average lot size seven thousand five hundred (7,500) square feet equal to 4.36 units per acre.

B. R-2 Moderate residential density: average lot size five thousand (5,000) square feet equal to 6.53 units per acre.

C. HR Historic residential density overlay: minimum lot size ten thousand (10,000) square feet equal to 3.27 units per acre.

Exact densities are subject to area, height, density and setback provisions of each district.

16.06.030 Zoning map.

A. The boundaries of the zones established in this title are to be indicated on a map entitled "City of Aurora Zoning Map," referred to hereafter as the city zoning map, which is adopted by reference. The map shall be dated with the effective date of adoption and be signed by both the M~~m~~ayor and C~~c~~ity R~~r~~ecorder.

B. Each lot, tract and parcel of land or portion thereof within the zone boundaries as designated and marked on the zoning map, is classified, zoned and limited to the

uses as hereinafter specified and defined for the applicable zone classification.

C. Amendments to the city zoning map may be made in accordance with the provisions of Chapters 16.74 and 16.76. Copies of all map amendments shall be dated with the effective date of the document adopting the map amendment and shall be maintained without change, together with the adopting document, on file in the office of the C~~c~~ity R~~r~~ecorder.

D. The C~~c~~ity R~~r~~ecorder shall maintain an up-to-date copy of the city zoning map. Any map amendments shall be accurately portrayed, listed in the amendment column on the face of the map, with the date, the number of the ordinance authorizing the change and the initials of the C~~c~~ity ~~r~~Recorder.

16.06.040 Determination of zoning boundaries.

When there is uncertainty, contradiction or conflict as to the intended location of any zone boundary, the exact location shall be determined by the C~~c~~ity R~~r~~ecorder in accordance with the following standards:

A. Street Lines. Where the boundaries are indicated as following approximately the street, alley or railroad center lines, such lines shall be construed to be the zone boundaries.

B. Street Vacations. Whenever a street is lawfully vacated, the area vacated shall revert (in equal proportions) to the adjoining properties and shall acquire the zone classification of the property to which it reverts.

C. Lot Lines. Where the boundaries are indicated as following approximately the lot lines, such lot lines shall be construed to be the zone boundaries. If a zone boundary divides a lot into two zones, the entire lot shall be placed in the zone that accounts for the greater area of the lot, by means of an adjustment of the boundary of not more than fifty (50) feet.

D. Water Courses. The boundary lines are intended to follow the center lines of water courses.

Chapter 16.08

UNLISTED USES

Sections:

16.08.010 Purpose.
16.08.020 Unlisted use defined.
16.08.030 Administration.
16.08.040 Limitation.
16.08.050 Approval criteria.

16.08.010 Purpose.

It is not possible to contemplate all of the various uses which will be compatible within a zoning district and omissions will occur. The purpose of these provisions is to establish a procedure for determining whether certain specific uses would have been permitted in a zoning district had they been contemplated and whether such unlisted uses are compatible with the listed uses.

16.08.020 Unlisted use defined.

An "unlisted use" is a use which is not listed as either an outright or a conditional use in any zoning district.

16.08.030 Administration.

The C~~c~~ity R~~r~~ecorder shall maintain a list by zoning district of unlisted uses approved by the P~~p~~lanning C~~c~~ommission. The list shall have the same effect as an amendment to the use provisions of the applicable zone. A copy of the updated list shall be given to each P~~p~~lanning C~~c~~ommissioner at the next regularly scheduled P~~p~~lanning C~~c~~ommission meeting following their determination that the unlisted use is a similar use and shall be available to the public on request. Annually, all copies of this title shall be updated to include the unlisted uses approved as similar uses during the previous year.

16.08.040 Limitation.

The P~~p~~lanning C~~c~~ommission shall not authorize an unlisted use in a zoning district if the use is specifically listed in another zone as either a permitted use or a conditional use.

16.08.050 Approval criteria.

The P~~p~~lanning C~~c~~ommission shall approve or deny an unlisted use application based on findings that:

A. The use is consistent with the intent and purpose of the applicable zoning district;

B. The use is similar to and of the same general type as the uses listed in the zoning district;

C. The use has similar intensity, density, off-site impacts and impacts on community facilities as the uses listed in the zoning district.

Chapter 16.10

R-1 RESIDENTIAL LOW DENSITY ZONE

Sections:

16.10.010 Purpose.
16.10.020 Permitted uses.
16.10.030 Conditional uses.
16.10.040 Development standards.

16.10.010 Purpose.

The R-1 zone is intended to provide minimum standards for residential use in areas of low population densities.

(Ord. 415 § 7.40.010, 2002)

16.10.020 Permitted uses.

In the R-1 zone, only the following uses and their accessory uses are permitted outright:

A. Registered child care facility or certified group child care home defined by ORS 657A;

B. Home occupation (Type I) subject to Chapter 16.46;

C. Manufactured homes on individual lots subject to Section 16.36.030 and development standards for a single-family detached residential dwelling;

D. Public support facilities;

E. Residential care home;

F. Single-family detached residential dwelling;

G. Public park and recreation facility, provided that all buildings setbacks shall be a minimum of twenty-five (25) feet from any property line;

H. Duplex or two-family dwelling, provided that it is not located within five hundred (500) feet of a lot line which lot contains another duplex and the lot or parcel contains a minimum of ten thousand (10,000) square feet;

I. Accessory dwelling unit located in the rear or side yard, subject to Chapter 16.54;

J. Municipally owned structures existing on or before July 1, 2001;

K. Accessory buildings located in the rear or side yard.

(Ord. 455 § 2, 2010; Ord. 415 § 7.40.020, 2002)

16.10.030 Conditional uses.

The following uses and their accessory uses may be permitted in the R-1 zone when authorized by the P~~p~~lanning C~~c~~ommission in accordance with the requirements of Chapter 16.60, other relevant sections of this title and any conditions imposed by the P~~p~~lanning C~~c~~ommission:

A. Church, provided that all building setbacks shall be a minimum of thirty (30) feet from any property line;

B. Home occupation (Type II) subject to Chapter 16.46;

C. Minor impact utilities;

D. Schools limited to pre-kindergarten through eighth grade, provided that all building setbacks shall be a minimum of thirty (30) feet from any property line;

E. Museum;

F. Bed and breakfast establishments;

G. Accessory dwelling unit located in the front yard, subject to Chapter 16.54;

H. Accessory buildings located in the front yard.

(Ord. 455 § 3, 2010; Ord. 415 § 7.40.030, 2002)

16.10.040 Development standards.

A. The minimum lot area shall be seven thousand five hundred (7,500) square feet except the P~~p~~lanning C~~c~~ommission may approve the following:

1. For residential subdivision proposals containing a minimum of two acres, minimum required lot area, width and depth

may be reduced by up to ten (10) percent when:

a. The resulting density will not exceed 5.8 dwelling units per gross acre,

b. The average lot size for the subdivision is at least seven thousand five hundred (7,500) square feet with a minimum of fifty (50) percent of the lots meeting the minimum lot size of seven thousand five hundred (7,500) square feet, and

c. A deed restriction limiting use of all lots to single-family detached residences is recorded with the final plat. For subdivision proposals containing a mixture of single-family residential lots and lots intended for other uses, this analysis shall be based only on the sub-area containing single-family residential lots, which must comply with all the eligibility requirements of this subsection.

B. The minimum lot width shall be seventy (70) feet, except where reduced under subsection (A)(1) of this section.

C. The minimum lot depth shall be ninety (90) feet, except where reduced under subsection (A)(1) of this section.

D. The minimum setback requirements are as follows:

1. The front setback shall be a minimum of twenty (20) feet except no more than two adjacent buildings shall have the same front setback from the right-of-way. The front setbacks shall vary at least four feet in depth between adjacent lots. (See Illustration 13, Appendix A set out at the end of this title.)

a. Front setback may be reduced to fifteen (15) feet when the garage is located in the rear yard and access is provided from the front property line.

b. Front setback may be reduced to ten (10) feet when the garage is located in the rear yard and access is provided from a rear alley only. No front drive access shall be permitted.

2. The side setbacks shall be a minimum of eight (8) feet. Any street side setback shall be a minimum of ten (10) feet.

3. The rear setback shall be a minimum of ten (10) feet for single stories and twenty (20) feet for two stories.

4. The setback for a garage door approach (the point where the vehicle accesses the garage) shall be a minimum of twenty (20) feet from its access drive.

E No building in an R-1 zoning district shall exceed two and one-half stories or thirty-five (35) feet in height. All principal and accessory buildings, including accessory dwelling units and accessory buildings, shall utilize at least two of the following design features to provide visual relief along the street frontage:

1. Dormers;
2. Recessed entries;
3. Cupolas;
4. Bay or bow windows;
5. Gables;
6. Covered porch entries;
7. Pillars or posts;
8. Eaves (minimum six inches projection); or
9. Off-sets on building face or roof (minimum sixteen (16) inches).

F. One principal building per lot or parcel.

G. Impervious surfaces shall not cover more than fifty (50) percent of the lot or parcel.

H. Parking requirements shall be in accordance with Chapter 16.42. Parking requirements for dwelling units, including manufactured homes, require the construction of a garage or carport. Manufactured dwellings located in manufactured dwelling parks are required to install either a garage or carport.

I. Landscaping requirements shall be in accordance with Chapter 16.38.

J. All properties located outside the designated historic commercial overlay and the historic residential overlay and adjacent to Highway 99 or Ehlen Road shall be collectively referenced as "gateway properties." The standards of Chapter 16.56 shall apply to all aspects of the site including, but not limited to, structural facade, yard and landscaping that are immediately adjacent to and visible from Highway 99 or Ehlen Road.

K. Additional requirements shall include any applicable section of this title.

(Ord. 455 § 4, 2010; Ord. 419 §§ 1, 2, 2002; Ord. 415 § 7.40.040, 2002)

Chapter 16.12

R-2 RESIDENTIAL LOW/MODERATE DENSITY ZONE

Sections:

16.12.010 Purpose.
16.12.020 Permitted uses.
16.12.030 Conditional uses.
16.12.040 Development standards.

16.12.010 Purpose.

The R-2 zone is intended to provide minimum standards for residential use in areas of moderate to high population concentrations.
(Ord. 415 § 7.50.010, 2002)

16.12.020 Permitted uses.

In the R-2 zone, only the following uses and their accessory uses are permitted outright:

A. Registered child care facility or certified group child care home defined by ORS 657A;

B. Home occupation (Type I) subject to Chapter 16.46;

C. Manufactured home on individual lots subject to Section 16.36.030 and development standards for a single-family detached residential dwelling;

D. Public support facility;

E. Residential care home;

F~~E~~. Single-family detached residential dwelling;

G~~F~~. Single-family attached residential dwelling;

H~~G~~. Duplex;

I~~H~~. Triplex;

J~~I~~. Manufactured home parks located more than one hundred (100) feet from Highway 99 subject to Section 16.36.040 and Chapter 16.58;

K~~J~~. Municipal park and recreation facility;

L~~K~~. Accessory dwelling unit located in the rear or side yard subject to Chapter 16.54;

M~~L~~. Accessory buildings located in the rear or side yard.
(Ord. 455 § 5, 2010 Ord. 415 § 7.50.020, 2002)

16.12.030 Conditional uses.

The following uses and their accessory uses may be permitted in the R-2 zone when authorized by the Pplanning Commission in accordance with the requirements of Chapter 16.60, other relevant sections of this title and any conditions imposed by the Pplanning Commission:

A. Church, provided that all building setbacks shall be a minimum of twenty (20) feet from any property line;

B. Home occupation (Type II) subject to Chapter 16.46;

C. Minor impact utilities;

D. Schools limited to pre-kindergarten through eighth grade provided that all building setbacks shall be a minimum of twenty (20) feet from any property line;

E. Museum;

F. Bed and Breakfast establishment;

G. Accessory dwelling units located in the front yard subject to Chapter 16.54;

H. Accessory buildings located in the front yard.

(Ord. 455 § 6, 2010; Ord. 415 § 7.50.030, 2002)

16.12.040 Development standards.

A. The minimum lot area for a single-family detached residence with municipal sewer service shall be five thousand (5,000) square feet except the Pplanning Commission may approve the following:

1. For residential subdivision proposals containing a minimum of two acres, lot area, width and depth may be reduced by up to ten (10) percent when:

a. The resulting density will not exceed 8.71 dwelling units per gross acre,

b. The average lot size for the subdivision is at least five thousand (5,000) square feet and a minimum of fifty (50) percent of lots must comply with the minimum lot size of five thousand (5,000) square feet, and

c. A deed restriction limiting use of all lots to single-family detached residences is recorded with the final plat. For subdivision proposals containing a mixture of single-family residential lots and lots intended for other uses, this analysis shall be based only on the sub-area containing single-family residential lots, which must comply with all the eligibility requirements of this subsection.

B. The minimum lot area for single family attached residences shall be three thousand (3,000) square feet per dwelling unit.

C. The minimum lot area for a manufactured home park shall be one acre.

D. The minimum lot width for all uses except single-family attached shall be fifty (50) feet, except where reduced under subsection (A)(1) of this section. The minimum lot width for single-family attached shall be thirty-five (35) feet.

E. The minimum lot depth shall be sixty-five (65) feet, except where reduced under subsection (A)(1) of this section.

F. The minimum setback requirements are as follows,

1. The front setback shall be a minimum of fifteen (15) feet except no more than two adjacent buildings shall have the same front setback from the right-of-way. The setbacks shall vary at least four feet in depth between adjacent lots. (See Illustration 13, Appendix A set out at the end of this title.)

a. Front setback may be reduced to ten (10) feet when garage is located in rear yard with rear yard alley access only. No front drive access is permitted.

2. Except for the attached side of a single-family attached dwelling unit, the side setbacks shall be a minimum of five feet. Any street side setback shall be a minimum of ten (10) feet;

3. The rear setback shall be a minimum of ten (10) feet for single stories and twenty (20) feet for two stories.

4. The setback for the garage door approach (the point where the vehicle accesses the garage) shall be a minimum of twenty (20) feet from its access drive.

G. No building in an R-2 zoning district shall exceed two and one-half stories or thirty-five (35) feet in height. All buildings, including accessory dwelling units and accessory buildings, shall utilize at least two of the following design features to provide visual relief along the street frontage:

1. Dormers;
2. Recessed entries;
3. Cupolas;
4. Bay or bow windows;
5. Gables;
6. Covered porch entries;
7. Pillars or posts;
8. Eaves (minimum six inches projection); or
9. Off-sets on building face or roof (minimum sixteen (16) inches).

H. One principal building per lot or parcel.

I. Impervious surfaces shall not cover more than sixty (60) percent of the lot or parcel.

J. Parking requirements shall be in accordance with Chapter 16.42. Parking requirements for residential units, including manufactured homes, require the construction of a garage or carport. Manufactured dwellings located in manufactured dwelling parks are required to install either a garage or carport.

K. Landscaping requirements shall be in accordance with Chapter 16.38.

L. All properties located outside the designated historic commercial overlay and the historic residential overlay and adjacent to Highway 99 or Ehlen Road shall be collectively referenced as "gateway properties." The standards of Chapter 16.56 shall apply to all aspects of the site including, but not limited to, structural facade, yard and landscaping that are immediately adjacent to and visible from Highway 99 or Ehlen Road.

M. Additional requirements shall include any applicable section of this title.

(Ord. 455 § 7, 2010; Ord. 419 §§ 3, 4, 2002; Ord. 415 § 7.50.040, 2002)

Chapter 16.13

ACCESSORY BUILDINGS

Sections:

16.13.010 Purpose
16.13.020 Applicability and administration.
16.13.030 Application submittal requirements.
16.13.040 Approval standards.

16.13.010 Purpose

Accessory buildings are permitted in certain situations to:

A. Allow for the more efficient use of yards

B. Allow for additional storage space

(Ord. 455 § 8, 2010)

16.13.020 Applicability and administration.

A. Accessory buildings may be added to any single-family detached dwelling or manufactured home in any residential (R) zoning district.

B. Approvals for accessory buildings shall be approved administratively pursuant to Chapter 16.78, except for accessory buildings of two hundred (200) square feet or less and/or accessory buildings located in the historic residential overlay which shall require approval by the H~~h~~istoric R~~r~~eview B~~b~~oard pursuant to Chapters 17.16 and 17.24 prior to administrative approval (Ord. 455 § 8, 2010; Ord. 415 § 7.112.020, 2002)

16.13.030 Application submittal requirements.

All applications for accessory buildings shall be made on forms provided by the city and shall be accompanied by:

A. A site plan drawn to standard engineering scale showing the location of the accessory building, the entrance and exits from the site, and areas to be designated for parking;

B. A completed building permit application, if applicable. Accessory buildings not subject to building permits requirements are still subject to other requirements of Chapter 16.13.

(Ord. 455 § 2, 2010)

16.13.040 Approval standards.

A. Standards for creating accessory buildings address the following purposes:

1. Ensure that accessory buildings are compatible with the desired character and livability of Aurora's residential zones; and

2. Ensure that accessory building units are smaller in size than principal buildings.

B. Design standards

1. Maximum height for an accessory building shall be eighteen (18) feet or seventy-five (75) percent of the height of the principal building, whichever is greater. Accessory dwelling units constructed above accessory buildings shall not exceed the height of the principal structure.

2. The maximum square footage for an accessory building shall be five hundred (500) square feet in the R-2 zone and seven hundred (700) square feet in the R-1 zone, except the maximum square footage for an accessory building on a lot or parcel greater than fifteen thousand (15,000) square feet shall be one thousand (1,000) square feet. Accessory buildings size may be interpolated between seven hundred and fifty (750) square feet and one thousand (1,000) square feet when lot size is between seventy five hundred (7,500) and fifteen thousand

(15,000) square feet.

3. Only one accessory building exceeding two hundred (200) square feet is allowed per lot. N~~n~~o more than two accessory buildings two hundred (200) square feet or less permitted.

4. Accessory buildings greater than two hundred (200) square feet shall utilize at least two of the following design features to provide visual relief along the street frontage:

a. Dormers;

b. Recessed entries;

c. Cupolas;

d. Bay or bow windows;

e. Gables;

f. Covered porch entries;

g. Pillars or posts;

h. Eaves (minimum six inches projection); or

i. Off-sets on building face or roof (minimum sixteen (16) inches).

C. Accessory buildings must meet the following standards:

1. Accessory buildings two hundred (200) square feet or less shall not exceed a height of ten (10) feet as measured from the finished floor level, to the average height of the roof surface. All setback requirements applicable to the base residential zone shall apply to accessory buildings, except for accessory buildings two hundred (200) square feet or less may be setback five (5) feet from rear or side lot lines.

2. A five (5) foot minimum separation is required between a principal building and each accessory building.

3. Accessory buildings greater than two hundred (200) square feet must have exterior finish material that is the same as or a visual match in type, size and placement of, the exterior finish material of the existing dwelling unit or manufactured home, except all garages and carport are required to match the finish material of the primary structure~~.~~

4. Accessory buildings greater than two hundred (200) square feet shall have a minimum nominal roof pitch of at least three (3) feet in height for each twelve (12) feet in width, as measured from the ridge line.

5. Structures connected to the principal building by a breezeway are accessory buildings unless the breezeway is enclosed and contains architectural elements such as windows, doors, trim, and roof lines compatible with the principal building. Breezeways shall be subject to building code requirements.

6. Off-Street Parking. A garage or carport constructed of like materials consistent with the predominate construction of immediately surrounded dwellings and sided, roofed and finished to match the exterior of the dwelling or manufactured structure is required regardless of square footage.

D. All properties located outside the designated historic commercial overlay and the historic residential overlay and adjacent to Highway 99 or Ehlen Road shall be collectively referenced as "gateway properties." The standards of Chapter 16.56 shall apply to all aspects of the site including, but not limited to, structural facade, yard and landscaping, and accessory buildings that are immediately adjacent to and visible from Highway 99 or Ehlen Road. (Ord. 462 § 1, 2011; Ord. 455 § 8, 2010)

Chapter 16.14

C COMMERCIAL ZONE

Sections:

16.14.010 Purpose.
16.14.020 Permitted uses.
16.14.030 Conditional uses.
16.14.040 Development standards.
16.14.050 Open inventory display.

16.14.010 Purpose.

The commercial zone (C) is intended to provide areas for retail and service commercial uses.
Ord.415 § 7.60.050, 2002)

16.14.020 Permitted uses.

In the commercial zone, except as specifically stated in Section 16.14.050 activities shall be conducted within an enclosed building or structure and are subject to site development review, Chapter 16.58. Only the following uses and their accessory uses are permitted outright:

1. Auction house, auditorium, exhibit hall, community building, club, lodge hall, fraternal organization or church;
2. Bed and breakfast inn, hotel or motel;
3. Bicycle sales or repair;
4. Cultural exhibits and library services;
5. Day care facility licensed by state;
6. Dwelling units located on the second floor of the commercial structure;
7. Eating and drinking establishments;
8. Financial, insurance and real estate offices;
9. General retail and convenience sales, except adult bookstores;
10. Indoor and outdoor recreation and entertainment facilities, except adult entertainment or adult motion picture theaters;
11. Laundry or dry cleaning establishments;
12. Medical or dental services including labs;
13. Mini storage, with or without a caretaker dwelling;
14. Minor impact utilities;
15. Motor vehicle, farm implement, boat or trailer rental, sales or services including body repairs when repairs are conducted wholly within an enclosed structure;
16. Mortuary, funeral home, crematorium or taxidermy;
17. Nurseries, greenhouses, and landscaping supplies not requiring outside storage for items other than plant materials including wholesale or retail;
18. Parking structure or lot or storage garage;
19. Printing or publishing plant;
20. Professional and administrative offices;
21. Public safety and support facilities;
22. Public transportation passenger terminal or taxi stand;
23. Repair services for household and personal items, excluding motorized vehicles;
24. Sales, grooming and veterinary offices or animal hospitals without outside pens or noise beyond property line;
25. Schools;
26. Service station, retail vehicle fuel sales or car wash when not located adjacent to a residential zone.
27. Single-family residence, provided it is an accessory use and cannot be sold separately;
28. Studios, including art, photography, dance, and music.

(Ord.415 § 7.60.050, 2002)

16.14.030 Conditional uses.

The following uses and their accessory uses may be permitted when authorized by the P~~p~~lanning C~~c~~ommission in accordance with the requirements of Chapter 16.60, other relevant sections of this title and any conditions imposed by the P~~p~~lanning C~~c~~ommission:

A. Adult bookstore, adult entertainment or adult motion picture theaters, provided no sales area or activity is ever visible from the building exterior, all building setbacks shall be a minimum of thirty-five (35) feet from any property line and shall be screened and buffered in accordance with Section 16.38.040. In addition, location shall be at least one thousand five hundred (1,500) feet, measured in a straight line, from any of the following:

1. Residential district,
2. Public or private nursery, preschool, elementary, junior, middle or high school,
3. Day care facility, nursery school, convalescent home, home for the aged, resident care facility or hospital,
4. Public library,
5. Community recreation,
6. Church,
7. Historic district or historic structure;

B. Home occupations (Type II) subject to Chapter 16.46;

C. Major impact utilities, including telecommunications facilities subject to Chapter 16.50, provided that a ten (10) foot perimeter setback containing both externally visible landscaping meeting buffering standards and solid screening surrounds the property;

D. Retail or wholesale business with not more than fifty (50) percent of the floor area used for the manufacturing, processing or compounding of products in a manner which is clearly incidental to the primary business conducted on the premises;

E. Wholesaling, storage and distribution.

(Ord.415 § 7.60.050, 2002)

16.14.040 Development standards.

A. There is no minimum size for lots or parcels served by municipal sewer. Minimum lot sizes for lots or parcels without municipal sewer shall be as determined by the county sanitarian.

B. There is no minimum lot width or depth.

C. Unless otherwise specified, the minimum setback requirements are as follows:

1. There is no minimum front yard setback except as required for buffering of off street parking in accordance with Section 16.38.050;
2. On corner lots and the rear of through lots the minimum setback for the side facing the street shall be ten (10) feet;
3. No side or rear yard setback shall be required except twenty (20) feet screened and buffered in accordance with Chapter 16.38 shall be required where abutting a residential zoning district;

D. No building shall exceed forty-five (45) feet in height. Within one hundred (100) feet of a residential zone, no building shall exceed thirty-five (35) feet in height. All buildings greater than thirty-five (35) feet in height are subject to Chapter 16.24.

E. Parking shall be in accordance with Chapter 16.42.

F. Landscaping shall be in accordance with Chapter 16.38.

G. All properties located outside the designated historic commercial overlay and the historic residential overlay and adjacent to Highway 99 or Ehlen Road shall be collectively referenced as "gateway properties." The standards of Chapter 16.56 shall apply to all aspects of the site including, but not limited to, structural facade, yard and landscaping that are

immediately adjacent to and visible from Highway 99 or Ehlen Road.

H. Additional requirements shall include any applicable section of this title.

(Ord.415 § 7.60.050, 2002)

16.14.050 Open inventory display.

A. All business, service, repair, processing, storage or merchandise displays shall be conducted wholly within an enclosed building except for the following:

1. Off-street parking or loading;
2. Drive-through windows;
3. Display, for resale purposes, of large on road vehicles which could not be reasonably displayed wholly within a building; specifically automobiles, boats, logging equipment, farm machinery, heavy machinery and trucks. Such displays shall be limited to a maximum of five vehicles which shall be movable at all times and cannot be deemed as discarded or dismantled. All vehicles displayed for sale must be located on a paved surface;
4. Displays for sale purposes of small merchandise in relation to the fronting business shall be removed to the interior of the business after business hours;
5. Display, for sale purposes in relation to fronting business, of live trees, shrubs and other plants, flowers or produce; and
6. Outdoor seating in relation to a permitted eating or drinking establishment subject to 16.34.060.D.

B. All open inventory displays shall be maintained, kept clean, and be situated in conformance with all applicable city ordinances.

(Ord. 464, 2011; Ord.415 § 7.60.050, 2002)

Chapter 16.16

I INDUSTRIAL ZONE

Sections:

16.16.010 Purpose.
16.16.020 Permitted uses.
16.16.030 Conditional uses.
16.16.040 Development standards.

16.16.010 Purpose.

The land designated as industrial is the only area capable of accommodating anticipated economic development activities that are non-retail in nature. With its excellent transportation access, this area provides the opportunity for land-intensive commercial business, such as lumber yards or equipment sales and service, as well as lumber yards or equipment sales and service, as well as manufacturing.

16.16.020 Permitted uses.

In the I zone, all uses are subject to site development review, Chapter 16.58. Only the following uses and their accessory uses are permitted:

A. Agricultural supplies;

B. Nurseries, greenhouses, and landscaping supplies requiring outside storage including wholesale or retail;

C. Cabinet or carpentry shop;

D. Research services;

E. Retail facilities on sites greater than one hundred thousand (100,000) square feet;

F. Manufacturing of finished products excluding all processes involving the refining or rendering of fats or oils;

G. Manufacturing of components for use in finished products excluding all processes involving the refining or rendering of fats or oils;

H. Packaging of previously processed materials;

I. Participation sports and recreation: indoor and outdoors;

J. Processing and packing of food products excluding all processes involving the refining or rendering of fats or oils;

K. Processing of previously processed materials for use in components or finished products excluding all processes involving the refining or rendering of fats or oils;

L. Processing of materials for use in any construction or building trades;

M. Public support facilities;

N. Tire retreading or vulcanizing;

O. Major impact utilities including telecommunications facilities subject to Chapter 16.50;

P. Warehouse and wholesale distribution and sales;

Q. Welding, sheet metal or machine shop;

R. Eating or drinking establishments;

S. Parking structure or lot or storage garage;

T. Printing or publishing plant;

U. Veterinary office or animal hospital;

V. Service station, car wash, motor vehicle, farm implement, boat or trailer rental, sales or services including body repairs;

W. Machinery repair;

X. Transportation terminals and storage yards;

Y. Participation sports and recreation, indoor and outdoor.

(Ord. 415 § 7.65.020, 2002)

16.16.030 Conditional uses.

The following uses and their accessory uses may be permitted when authorized by the ~~-~~P~~p~~lanning C~~c~~ommission in accordance with the requirements of Chapter 16.60, other relevant sections of this title and any conditions imposed by the P~~p~~lanning C~~c~~ommission:

A. Child day care facility, licensed by the state;

B. Junkyard or wrecking yard screened from adjacent streets;

C. Commercial amusement facilities including bowling alleys, video arcades, and movie theaters other than adult motion picture theaters;

D. Home occupations (Type II) subject to Chapter 16.46;

E. Recycle stations, provided that a ten (10) foot perimeter setback containing both externally visible landscaping meeting buffering standards and solid screening surrounds the property, all operations are conducted entirely within buildings, and all building setbacks shall be a minimum of thirty (30) feet from any property line.

(Ord. 415 § 7.65.030, 2002)

16.16.040 Development standards.

A. There is no minimum size for lots or parcels served by municipal sewer. Minimum sizes for lots or parcels without municipal sewer shall be as determined by the county sanitarian.

B. There is no minimum lot width or depth.

C. Unless otherwise specified, the minimum setback requirements are as follows:

1. There is no minimum front yard setback except as required for buffering of off street parking in accordance with Section 16.38.050.

2. On corner lots, the minimum setback for the side facing the street shall be ten (10) feet.

3. No additional side or rear yard setback shall be required except fifty (50) feet screened and buffered in accordance with Chapter 16.38 shall be required where abutting a residential zoning district.

D. No building shall exceed fifty (50) feet in height. Within one hundred (100) feet of a residential zone, no building shall exceed thirty-five (35) feet in height. All buildings greater than thirty-five (35) feet in height are subject to Chapter 16.24.

E. Landscaping shall be in accordance with Chapter 16.38. All outside storage areas require buffering and screening as defined in Chapter 16.38.

F. Parking shall be in accordance with Chapter 16.42.

G. All properties located outside the designated historic commercial overlay and the historic residential overlay and adjacent to Highway 99 or Ehlen Road shall be collectively referenced as "gateway properties." The standards of Chapter 16.56 shall apply to all aspects of the site including, but not limited to, structural facade, yard and landscaping that are immediately adjacent to and visible from Highway 99 or Ehlen Road.

H. Additional requirements shall include any applicable section of this title.

(Ord. 415 § 7.65.040, 2002)

Chapter 16.18

FH FLOOD HAZARD ZONE

Sections:

16.18.010 Purpose.
16.18.020 Definitions.
16.18.030 Permitted uses.
16.18.040 Conditional uses.
16.18.050 General provisions.
16.18.060 Administration.
16.18.070 Approval standards.
16.18.080 Application submission requirements.
16.18.090 Storage, placement or stockpiling buoyant or hazardous materials in flood hazard areas.

16.18.010 Purpose.

The purpose of the floodplain zoning district (FP) is to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

A. To protect human life and health;

B. To minimize expenditure of public money and costly flood control projects;

C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

D. To minimize prolonged business interruptions;

E. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;

F. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;

G. To ensure that the public has access to information that property is in an area of special flood hazard;

H. To ensure that those who occupy the areas of special flood hazards assume responsibility for their actions; and

I. To maintain compliance with the National Flood Insurance and Hazard Mitigation Program (see 44 CFR, Chapter 1, Subchapter B, Part 59-76, and updates and amendments thereto). (Ord. 415 § 7.70.010, 2002)

16.18.020 Definitions.

For the purpose of this chapter, the following words, terms and expressions shall be interpreted in accordance with the following definitions, unless the context requires otherwise.

"Area of shallow flooding" means area designated AO or AH on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.

"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.

"Base flood" means the flood having a one-percent chance of being equaled or exceeded in any given year. The base flood is also referred to as the "one hundred (100) year flood."

"Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters; and/or the unusual and rapid accumulation of runoff of surface waters from any source.

"Food Insurance Rate Map (FIRM)" means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

"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.

"Lowest floor" means 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 allows the entry and exit of flood waters.

"New construction" means structures for which the start of construction commenced on or after the adoption date of the ordinance codified in this chapter.

"Start of construction" includes 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 (180) 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 state 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 foundation or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

"Structure" means a walled and roofed building including a gas or liquid storage tank that is principally above ground.

"Substantial improvement" means any allowed repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) 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 any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

(Ord. 415 § 7.70.020, 2002)

16.18.030 Permitted uses.

Within the area subject to the hazards of one hundred (100) year periodic stream flooding, no existing structure shall be enlarged or structurally altered, nor shall the use be changed unless the change conforms with the allowed uses of this zone. The following use (and not others) are permitted uses:

A. Parks or recreation facility, including but not limited to, trails, pathways, picnic

shelters and restrooms with municipal sewer service;

B. Farming and farming structures;

C. Parking and parking lots (gravel surface only), and parking structures;

D. Nondwelling accessory structures. (Ord. 419 § 17, 2002: Ord. 415 § 7.70.030, 2002)

16.18.040 Conditional uses.

A. Utility facilities including but not limited to waste water treatment plant, water treatment plant and power station located more than one hundred (100) feet from the top of the bank.

B. Boat landing and launch facility.
(Ord. 415 § 7.70.040, 2002)

16.18.050 General provisions.

A. Area of Application. All property which falls within the boundaries of the one hundred (100) year floodplain shown on the FEMA maps as areas of special flood hazard shall be subject to the provisions of this title.

B. Basis for Establishing the Areas of Special Flood Hazard. The areas of special flood hazard identified by the Federal Insurance Administration on the Flood Insurance Maps dated August 30, 1974 as revised on February 27, 1976, are adopted by reference and declared to be a part of this title. The city shall utilize all authoritative information available in determining the location of special flood hazard areas.

C. Compliance. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this title and other applicable regulations.

D. Abrogation and Greater Restrictions. This title is not intended to repeal, abrogate, or impair any existing easements, covenants or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

E. Interpretation. In the interpretation and application of this chapter, all provisions shall be:

1. Considered as minimum requirements;

2. Literally construed in favor of the governing body; and

3. Deemed neither to limit nor repeal any other powers granted under state statutes.

F. Disclaimer of Liability. The degree of flood protection required by this title is considered reasonable for regulatory purposes and is based on scientific and engineering flood plain standards prepared by the Federal Insurance Administration. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This title does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This title shall not create liability on the part of the city, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this title or any administrative decision lawfully made thereunder.
(Ord. 415 § 7.70.060, 2002)

16.18.060 Administration.

A. A special permit shall be obtained before construction or development begins within any area of special flood hazard. The permit shall be required for all structures, and for all other development including fill and other activities and subdividing and partitioning as set forth in Chapter 16.04, Definitions.

B. The P~~p~~lanning D~~d~~irector shall review all development applications to determine if the property is subject to this chapter. Upon determination that the property is located within the flood hazard zone, the applicant

shall submit an application for a special permit under this chapter.

C. The Pplanning Ddirector shall make interpretations where needed as to exact location of the boundaries of the areas of flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions).

D. The Pplanning Ddirector shall notify all applicants floodproofing nonresidential buildings that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g., a building constructed to the base flood level will be rated as one foot below that level).

E. When an alteration to a waterway is proposed, the Pplanning Ddirector shall notify adjacent communities, the Division of State Lands and the Oregon Department of Land Conservation and Development prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

F. The Pplanning Ccommission shall review and approve all special permit applications submitted under this chapter in accordance with the provisions of this chapter and Chapter 16.76, and shall insure that all necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required.

G. The Cccity Rrecorder shall maintain for public inspection the following records:

1. Where base flood elevation data is provided through the Flood Insurance Map or by the applicant, a record of the actual elevation (in relation to mean sea level) of the lowest habitable floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement;

2. For all new or substantially improved floodproofed structures, a record the actual elevation (in relation to the mean sea level) and the floodproofing certifications;

3. For all new or substantially improved nonresidential structures, the certification that the floodproofing methods and elevations meet the floodproofing criteria in Section 16.18.070(I).

(Ord. 415 § 7.60.060, 2002)

16.18.070 Approval standards.

The Pplanning Ccommission may approve, approve with conditions, or deny a special permit based upon the following finding:

A. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

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

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

D. Electrical, heating, ventilation, plumbing, air-conditioning equipment and other service facilities shall be elevated one foot above the one hundred (100) year flood plain so as to prevent water from entering or accumulating within components during conditions of flooding.

E. All new and replacement water supply systems shall be designed to prohibit infiltration of flood waters into the system.

F. New and replacement sanitary sewage systems shall be designed to prohibit infiltration of flood waters into the systems and discharge from the systems into flood waters. No on-site disposal systems shall be allowed.

G. In all areas of special flood hazards where base flood elevations data has been provided:

1. Substantial improvement of any existing residential structure shall have the lowest floor, including basement, elevated to one foot above base flood elevations. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited. Parking, crawl spaces and storage is allowed below the lowest floor provided the area is designed to permit the entry and exit of floodwaters.

2. Substantial improvement of any existing commercial, industrial or other nonresidential structure, or new construction, under the permitted and conditional use of Sections 16.18.030 and 16.18.040, located within number A zones (as defined by the Federal Emergency Management Agency) shall either have the lowest floor, including basement, elevated to one foot above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

a. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

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

c. Be certified by a registered professional engineer or architect that the design and methods of construction in accordance with accepted standards of this subsection based on their development and/or review of the structural design, specifications and plans.

3. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsection (I)(1) of this section.

H. In all areas where base flood elevation data is not available, either through the Flood Insurance Map, the Federal Emergency Management Agency or from another authoritative source, applications shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgement and includes use of historical data, high water marks, photographs of past flooding, etc., where available. All structures shall be elevated at least two feet above grade in these areas.

I. Located within areas of special flood hazard established in Section 16.18.060(A) are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions apply:

1. Encroachments are prohibited, including fill, new construction, substantial improvements, and other development within Zones A1 and A2 (as defined by the Federal Emergency Management Agency) unless certification by registered professional engineer or architect is provided that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge and all such encroachments are anchored in a manner preventing displacement during a one hundred (100) year event.

(Ord. 415 § 7.70.070, 2002)

16.18.080 Application submission requirements.

A. All applications shall be made on forms provided by the city and shall be accompanied by:

1. A registered professional engineer's certification that the proposed project will not cause a rise in base flood elevation during a one hundred (100) year event as it exists on the FIRM Flood Insurance Rate Map effective August 30, 1974 as revised on February 27, 1976 or create additions that

would be detrimental to adjacent or neighboring properties;

2. Three copies of the development plan(s) and necessary data or narrative which explains how the development conforms to the standards. Sheet size for the development plan(s) and required drawings shall not exceed eighteen (18) inches by twenty-four (24) inches and the scale for all development plans shall be an engineering scale. One copy shall be no larger than eleven (11) inches by seventeen (17) inches.

B. The development plan and narrative shall include the following information. Items may be combined on one map:

1. Existing site conditions including vicinity map showing the location of the property in relation to adjacent properties and including parcel boundaries, dimensions and gross area;

2. The location, dimensions and names of all existing and platted streets and other public ways, railroad tracks and crossings, and easements on adjacent property and on the site and proposed streets or other public ways, easements on the site;

3. The location, dimensions and setback distances of all existing structures, improvements, utility and drainage facilities on adjoining properties and existing structures, water, sewer, improvements, utility and drainage facilities to remain on the site; and proposed structures, water, sewer, improvements, utility and drainage facilities on the site;

4. Existing contour lines at two-foot intervals for slopes from zero to ten (10) percent and five-foot intervals for slopes over ten (10) percent;

5. The drainage patterns and drainage courses on the site and on adjacent lands;

6. Potential natural hazard areas including:

a. Floodplain areas,

b. Areas having a high seasonal water table within zero to twenty-four (24) inches of the surface for three or more weeks of the year,

c. Unstable ground (areas subject to slumping, earth slides or movement). Where the site is subject to landslides or other potential hazard, a soils and engineering geologic study based on the proposed project may be required which shows the area can be made suitable for the proposed development,

d. Areas having a severe soil erosion potential, and

e. Areas having severe weak foundation soils;

7. Identification information, including the name and address of the owner, developer, and project designer, and the scale and north arrow;

8. A grading and drainage plan at the same scale as the site conditions and including the following:

a. The location and extent to which grading will take place indicating general contour lines, slope ratios, and slope stabilization proposals,

b. A statement from a registered engineer supported by factual data that all drainage facilities are designed in conformance A.P.W.A. standards and as reviewed and approved by the public works director;

9. Elevation in relation to mean sea level of the lowest floor (including basement) of all structures and elevation in relation to mean sea level to which the structure has been floodproofed;

10. Certification by a registered professional engineer or architect that elevations for any nonresidential structure meet the floodproofing criteria in Section 16.18.070(B);

11. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development;

12. When base flood elevation data has not been provided on the FIRM Maps, the applicant shall obtain and provide any base flood elevation and floodway data available from federal, state, or other sources.

(Ord. 415 § 7.70.080, 2002)

16.18.090 Storage, placement or stockpiling buoyant or hazardous materials in flood hazard areas.

A. The transportation of buoyant or hazardous materials from rising floodwaters contributes to the community's flood hazard. Accordingly, a permit must be obtained from the Pplanning Commission prior to storage, placement or stockpiling in a flood hazard zone. The application shall be processed according to Chapter 16.76.

B. In determining whether or not a permit will be granted to store, place or stockpile buoyant or hazardous materials in a flood hazard area, the Pplanning commission shall consider the following:

1. The nature of the materials (e.g., buoyancy, toxicity, flammability);

2. The danger that materials may be swept onto other properties or structures with resulting injury or damage;

3. The necessity of locating the materials on the particular site, especially in terms of public benefit;

4. The ability of emergency vehicles to reach the site in times of flooding;

5. The availability of alternative locations which are less susceptible to flooding;

6. The applicant's plan for hazard mitigation.

B. The placement, storage or stockpiling of buoyant or hazardous materials in a floodway is prohibited unless it is associated with a short-term public works project. The Pplanning Ccommission must consider the flood potential and establish a time in which the materials must be removed.

(Ord. 415 § 7.70.090, 2002)

Chapter 16.20

HR HISTORIC RESIDENTIAL OVERLAY

Sections:

16.20.010 Purpose.
16.20.020 Permitted uses.
16.20.030 Conditional uses.
16.20.040 Development standards.

16.20.010 Purpose.

The purpose of the historic residential overlay is to implement the City of Aurora Design Guidelines for Historic District Properties and preserve the development patterns occurring in the historic Aurora Colony.

(Ord. 415 § 7.72.010, 2002)

16.20.020 Permitted uses.

In the historic residential overlay, only the following uses and their accessory uses are permitted outright:

A. Registered child care facility or certified group child care home defined by ORS 657A;

B. Home occupation (Type I) subject to Chapter 16.46;

C. Residential care home;

D. Single-family detached residential dwelling;

E. Public support facilities;

F. Accessory dwelling units in the rear or side yard subject to Chapter 16.54;

G. Accessory structures in the rear or side yard.

(Ord. 415 § 7.72.020, 2002)

16.20.030 Conditional uses.

The following uses and their accessory uses may be permitted in the historic residential overlay when authorized by the planning commission in accordance with the requirements of Chapter 16.60, other relevant sections of this title and any conditions imposed by the Pplanning Ceommission:

A. Church, provided that all building setbacks shall be a minimum of thirty (30) feet from any property line;

B. Home occupation (Type II) subject to Chapter 16.46;

C. Minor impact utilities;

D. Schools limited to pre-kindergarten through eighth grade, provided that all building setbacks shall be a minimum of thirty (30) feet from any property line;

E. Museum;

F. Bed and breakfast establishments.

(Ord. 415 § 7.72.030, 2002)

16.20.040 Development standards.

A. The minimum lot area shall be ten thousand (10,000) square feet with municipal sewer service. Minimum lot area without municipal sewer shall be as determined by the county sanitarian.

B. The minimum lot width shall not be less than fifty (50) feet.

C. The minimum setback requirements are as follows:

1. The front setback shall be a minimum of fifteen (15) feet except the front setback may be reduced to a minimum of ten (10) feet when the garage is located in the rear yard or the garage is located in the side yard of a corner lot.

2. The side setbacks shall be a minimum of five feet. Any street side setback shall be a minimum of ten (10) feet.

3. The rear setback shall be a minimum of ten (10) feet, except the minimum rear setback for an accessory building, other than an accessory dwelling unit, shall be five feet.

4. The setback for the garage door approach (the point where the vehicle accesses the garage) shall be a minimum of

twenty (20) feet from any public street right-of-way.

D. No building in the historic residential overlay shall exceed two and one-half stories or thirty-five (35) feet in height.

E. Maximum height for an accessory structure shall be eighteen (18) feet or seventy-five (75) percent of the height of the primary structure, whichever is greater. Maximum square footage for an accessory structure shall be seven hundred (700) square feet, except the maximum square footage for an accessory structure on a lot or parcel greater than twenty thousand (20,000) square feet shall be one thousand (1,000) square feet.

F. One principal building per lot.

G. Impervious surfaces shall not cover more than fifty (50) percent of the lot or parcel.

H. Parking requirements shall be in accordance with Chapter 16.42.

I. Landscaping requirements shall be in accordance with Chapter 16.38.

J. All properties, uses and structures in the historic residential overlay are subject to the requirements of Title 17, Historic Preservation, and any applicable section of this title.

(Ord. 415 § 7.72.040, 2002)

Chapter 16.22

HC HISTORIC COMMERCIAL OVERLAY

Sections:

16.22.010 Purpose.
16.22.020 Permitted uses.
16.22.030 Conditional uses.
16.22.040 Development standards.

16.22.010 Purpose.

The purpose of the historic commercial overlay is to implement the City of Aurora Design Review Guidelines for Historic District Properties while providing for a concentrated, central commercial, office and retail goods and services area with opportunities for employment and business and professional services in close proximity to residential services. (Ord. 415 § 7.74.010, 2002)

16.22.020 Permitted uses.

In the historic commercial zone, activities shall be conducted within an enclosed structure or building and are subject to Chapter 16.58~~,~~ and Title 17 as applicable. ~~shall require a certificate of appropriateness approved by the historic review board.~~ Only the following uses and their accessory uses are permitted outright:

A. Auditorium, exhibit hall, community building, club, lodge hall, fraternal organization or church;

B. Bed and breakfast inn, hotel or motel;

C. Bicycle sales or repair;

D. Community recreation facilities;

E. Cultural exhibits and library services;

F. Day care facility licensed by state;

G. Dwelling units located on the second floor of the commercial structure;

H. Eating and drinking establishments;

I. Financial, insurance and real estate offices;

J. General retail and convenience sales, except adult bookstores;

K. Medical or dental services including labs;

L. Parking structure or lot;

M. Professional and administrative offices;

N. Public safety and support facilities;

O. Public transportation passenger terminal or taxi stand;

P. Repair services for household and personal items, excluding motorized vehicles;

Q. Sales, grooming and veterinary offices or animal hospitals without outside pens or noise beyond property line;

R. Schools;

S. Single-family residence, provided it is an accessory use and cannot be sold separately;

T. Studios, including art, photography, dance, and music;

U. Vehicle fuel sales.

(Ord. 415 § 7.74.020, 2002)

16.22.030 Conditional uses.

The following uses and their accessory uses may be permitted when authorized by the P~~p~~lanning C~~c~~ommission in accordance with the requirements of Chapter 16.60, ~~a certificate of appropriateness approved by the historic review board~~Title 17 as applicable, other relevant sections of this title and any conditions imposed by the P~~p~~lanning C~~c~~ommission:

A. Home occupations (Type II) subject to Chapter 16.46;

B. Retail or wholesale business with not more than fifty (50) percent of the floor area used for the manufacturing, processing or compounding of products in a manner which is clearly incidental to the primary business conducted on the premises.

(Ord. 415 § 7.74.030, 2002)

C. Food carts located on the same property and accessory to an established indoor eating and drinking establishment.

1. No structures, product display, or storage shall be located within yard setback or buffering and screening areas.

2. Drive-through units are prohibited.

3. Signage shall comply with AMC 16.44 and Title 17, as applicable, and shall be calculated as a portion of total signage as permitted for the site.

4. Shall be limited to one accessory unit per site/primary business.

5. Food Carts shall not have any internal floor space available to customers.

6. Food Carts shall not exceed 15 -20 feet in length.

7. Carts shall be motorized and fully operable, licensed vehicles.

16.22.040 Development standards.

A. There is no minimum lot size for lots served by municipal sewer. Minimum lot sizes for lots without municipal sewer shall be as determined by the county sanitarian.

B. There is no minimum lot depth.

C. Minimum lot width shall be fifty (50) feet.

D. No front setbacks shall be permitted, except as necessary to maintain visual clearance areas at unsignalized intersections. No rear or side setbacks are required.

E. No building shall exceed thirty-five (35) feet in height.

F. Parking shall be in accordance with Chapter 16.42 except as specifically exempted by Chapter 16.28, and should be located to the rear of the building. The P~~p~~lanning C~~c~~ommission may approve parking to the side of the building where parking to the rear is not feasible.

G. Signs shall be in accordance with the requirements of Chapter 16.44, and the City of Aurora Design Guidelines for Historic District Properties.

H. Landscaping shall be in accordance with the requirements of the City of Aurora Design Review Guidelines for Historic District Properties, Chapter 16.38, and the Aurora Downtown Improvement Plan.

I. All properties, uses and structures in the historic commercial overlay shall be subject to the requirements of Title 17, Historic Preservation, and any applicable section of this title.

Ord. 415 § 7.74.040, 2002)

J. Open Inventory display.

a. All business, service, repair, storage or merchandise displays shall be conducted wholly within an enclosed building except the following:

1. Off-street parking or loading;

2. Displays for sale purposes of small merchandise in relation to the fronting business shall be removed to the interior of the business after business hours;

3. Display, for sale purposes, in relation to fronting business, of live trees, shrubs and other plants, flowers, or produce; and

4. Outdoor seating in relation to a permitted eating or drinking establishment subject to 16.34.060.D and Historic Review Board review and approval.

B. All open inventory displays shall be maintained, kept clean, and be situated in conformance with all applicable city ordinances.

(Ord. 464, 2011; Ord. 415 § 7.60.050, 2002)

Chapter 16.24

A AIRPORT OVERLAY

Sections:

16.24.010 Purpose.
16.24.020 Definitions.
16.24.030 Application of airport overlay.
16.24.040 Permitted uses within the airport approach surface.
16.24.050 Conditional uses within the airport approach surface.
16.24.060 Procedures for approval.
16.24.070 Special limitations.

16.24.010 Purpose.

The purpose of the airport overlay zone (A) is to prevent the creation of potential air traffic hazards in the form of projections above a specified height within the flight path of planes using the Aurora State Airport. On the date the ordinance codified in this title was adopted, all land within the city was and is, subject to the provisions of the airport overlay zone. All of the city is under the horizontal surface and as such, no new structures are allowed to project into this imaginary surface. The present height limitations of this title insure that this will not occur. None of the city is presently within the Airport approach surface. (Ord. 415 § 7.76.010, 2002)

16.24.020 Definitions.

As used in this chapter:

"Airport approach surface" means a surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. The inner edge of the approach surface is the same width as the primary surface and extends to a width of: one thousand two hundred fifty (1,250) feet for a utility runway having only visual approaches; one thousand five hundred (1,500) feet for a runway other than a utility runway having only visual approaches; two thousand (2,000) feet for a utility runway having a nonprecision instrument approach; and three thousand five hundred (3,500) feet for a nonprecision instrument runway other than utility, having visibility minimums greater than three-fourths of a statute mile. An Airport approach surface extends for a horizontal distance of five thousand (5,000) feet at a slope of twenty (20) feet for each one foot upward (20:1) for all utility and visual runways, and ten thousand (10,000) feet at a slope of thirty-four (34) feet for each one foot upward (34:1) for all nonprecision instrument runways other than utility.

"Airport hazard" means any structure, tree or use of land which exceeds height limits established by the airport imaginary surfaces.

"Airport imaginary surfaces" means those imaginary areas in space which are defined by the airport surface, transitional zones, horizontal zone, runway protection zone, conical surface, and in which any object extending above these imaginary surfaces is an obstruction.

"Conical surface" extends one foot upward for each twenty (20) feet outward (20:1) for four thousand (4,000) feet, beginning at the edge of the horizontal surface (five thousand (5,000) feet from the center of each end of the primary surface of each visual and utility runway, or ten thousand (10,000) feet for all non-precision instrument runways other than utility at one hundred fifty (150) feet above the airport elevation), and upward extending to a height of three hundred fifty (350) feet above the airport elevation.

"Horizontal surface" means a horizontal plane one hundred fifty (150) feet above the established airport elevation, the perimeter

of which is constructed by swinging arcs of five thousand (5,000) feet from the center of each end of the primary surface of all other runways and connecting the adjacent arcs by lines tangent to those arcs.

"Impact" means noise levels exceeding fifty-five (55) Ldn.

"Place of public assembly" means a structure which the public may enter for such purposes as deliberation, worship, education, shopping, entertainment, amusement or awaiting transportation.

"Primary surface" means a surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends two hundred (200) feet beyond each end of that runway. The width of the primary surface is two hundred fifty (250) feet for utility runways having only visual approaches, five hundred (500) feet for utility runways having nonprecision instrument approaches, and five hundred (500) feet for other than utility runways.

"Runway protection zone" extends from the primary surface to a point where the approach surface is fifty (50) feet above the runway end elevation.

"Transitional zones" extend one foot upward for each seven feet outward (7:1) beginning on each side of the primary surface which point is the same elevation as the runway surface, and from the sides of each approach surfaces, thence extending upward to a height of one hundred fifty (150) feet above the airport elevation (horizontal surface).

"Utility runway" means a runway that is constructed and intended to be used by propeller driven aircraft of twelve thousand five hundred (12,500) pounds maximum gross weight or less.

(Ord. 415 § 7.76.020, 2002)

16.24.030 Application of airport overlay.

In any zoning district where airport overlay designation is combined with a primary district, the following regulations shall apply. If any conflict in regulation or procedure occurs with the primary zoning district, the provisions of the airport overlay shall govern.

A. Notice shall be provided to the Department of Aviation when the property or a portion thereof that is being developed is located within five thousand (5,000) feet of the sides or the ends of a runway except where the following criteria are satisfied:

1. All proposed structures are thirty-five (35) feet or less in height;

2. The proposal does not involve industrial uses, mining or similar uses that emit smoke, dust or steam;

3. The proposal does not involve sanitary land fills or water impoundments individually or cumulatively one quarter acre or greater in size; and

4. The proposal does not involve radio, radio telephone, television or similar transmission facilities or above ground electrical transmission lines.

B. For limited land use decisions, notice shall be provided in accordance with Chapter 16.78.

C. For quasi-judicial decisions, notice shall be provided in accordance with Chapter 16.76.

D. For legislative decisions, notice shall be provided in accordance with Chapter 16.74.

(Ord. 415 § 7.76.030, 2002)

16.24.040 Permitted uses within the airport approach surface.

The following uses are permitted:

A. Agriculture, excluding the commercial raising of animals that would be

adversely impacted by aircraft passing overhead;

B. Landscape nursery, cemetery, or recreation areas, which do not include buildings or structures;

C. Roadways, parking areas, and storage yards located in such a manner that vehicle lights will not make it difficult for pilots to distinguish between landing lights and vehicle lights, or result in glare, or in any way impair visibility in the vicinity of the landing approach;

D. Pipeline;

E. Underground utility wires.

(Ord. 415 § 7.76.040, 2002)

16.24.050 Conditional uses within the airport approach surface.

The following uses are conditional:

A. A structure that is an accessory to a permitted use;

B. A single-family dwelling, mobilehome, duplexes, multiple-family dwellings, when authorized in the primary zoning district, provided the landowner signs and records in the deed and mortgage records of Marion County a hold harmless agreement and an aviation and hazard easement, and submits them to the airport sponsor and to the city;

C. Buildings and uses of a public works, public service or public utility nature;

D. Commercial and industrial uses when authorized in the primary zoning district, provided the use does not:

1. Create electrical interference with navigational signals or radio communication between the airport and the aircraft,

2. Make it difficult for pilots to distinguish between airport lights and all others,

3. Impair visibility,

4. Create bird strike hazards,

5. Endanger or interfere with the landing, taking off or maneuvering of aircraft intending to use the airport,

6. Attract large numbers of people. (Ord. 415 § 7.76.050, 2002)

16.24.060 Procedures for approval.

A. The approval of a new conditional use in the airport approach surface shall follow the conditional use procedures set forth in Chapter 16.60.

B. The application for a conditional use shall contain all the information listed in Chapter 16.60 plus the following special information:

1. Property lines as they relate to the airport approach and the end of the runway;

2. Location and height of all existing and proposed buildings, structures, utility lines and roads;

3. A statement from the Federal Aviation Administration indicating that the proposed use will not interfere with the operation of the landing facility. (Ord. 415 § 7.76.060, 2002)

16.24.070 Special limitations.

To meet the standards and reporting requirements established in FAA Regulations, Part 77, the following limitations shall apply:

A. No structure shall penetrate into the airport imaginary surfaces as defined by Section 16.24.020.

B. No place of public assembly shall be permitted in an airport approach surface.

C. The height of any structure shall be limited to the requirements prescribed by the commission or by any other local ordinance or regulation.

D. Whenever there is a conflict in height limitations prescribed by this code or another pertinent ordinance, the lowest height limitation fixed shall govern, provided the height or other limitations and

restrictions here imposed shall not apply to such structures or uses customarily employed for aeronautical purposes.

E. No glare-producing materials shall be used on the exterior of any structure located within the airport approach surface.

F. No structure or building shall be allowed within the runway protection zone.

(Ord. 415 § 7.76.070, 2002)

Chapter 16.26

UAR URBAN AREA RESERVE OVERLAY

Sections:

16.26.010 Purpose.
16.26.020 Permitted uses.
16.26.030 Conditional uses.
16.26.040 Development standards.

16.26.010 Purpose.

The purpose of the urban area reserve overlay is to serve as a holding category as urban growth takes place elsewhere in the planning area, and to be preserved as long as possible as useful open space until needed for orderly growth.
(Ord. 415 § 7.80.010, 2002)

16.26.020 Permitted uses.

Within the urban area reserve overlay, the following uses are permitted outright:

A. Farm uses;

B. Single-family dwellings.

Ord. 415 § 7.80.020, 2002)

16.26.030 Conditional uses.

The following conditional uses may be permitted subject to conditional use permit, following a hearing and in accordance with the provisions of Chapter 16.60:

A. Commercial riding stable;

B. Day care center facilities;

C. Churches;

D. Community buildings, government buildings, lodge, and fraternal organization except those carried on as a business for profit;

E. Public, parochial, and private schools, but not including business, dancing, trade, technical or similar schools;

F. Parks and recreation facilities, fire stations, libraries, museums; but not including storage or repair yards, warehouses, or similar uses;

G. Recreation facility, public or private; but not including such intensive commercial recreation uses as a race track or amusement park;

H. Major impact utility.

(Ord. 415 § 7.80.030, 2002)

16.26.040 Development standards.

A. Lot Area. Each lot shall have a minimum of ten (10) acres.

B. Lot Width. Each lot shall have a minimum average width of three hundred (300) feet.

C. Front Yard. No structure shall be closer than fifty (50) feet to a designated collector or arterial and twenty (20) feet from a local street right-of-way as adopted on the comprehensive plan or official map.

D. Side Yards. There shall be a minimum side yard of twenty (20) feet, unless the side yard abuts a designated collector or arterial then the side yard shall be a minimum of fifty (50) feet.

E. Rear Yard. There shall be a minimum rear yard width of fifty (50) feet, unless the rear yard abuts a designated collector or arterial then the side yard width shall be a minimum of fifty (50) feet.

F. Frontage. Every lot shall have a minimum width at the street right-of-way of fifty (50) feet, except on cul-de-sacs, the minimum width at the street right-of-way shall be a minimum of thirty (30) feet.

G. Signs shall conform to the requirements of Chapter 16.44.

(Ord. 415 § 7.80.040, 2002)

Chapter 16.28

PD PARKING DISTRICT OVERLAY

Sections:

16.28.010 Purpose.
16.28.020 Provisions.

16.28.010 Purpose.

The purpose of the parking district overlay is to preserve the historic character of the commercial core and implement the recommendations of the Aurora downtown improvement plan. The parking district overlay shall apply to properties located in the historic commercial overlay.
(Ord. 415 § 7.82.010, 2002)

16.28.020 Provisions.

The same spatial requirements in Chapter 16.42, shall apply in the parking district overlay, except that:

A. On-street parking shall be counted to meet the required off-street space requirement. Such on-street parking shall be located adjacent to the subject property, or adjacent to a contiguous property under the same ownership, as long as all the property is in the parking district.

B. Required off-street parking spaces may be located on other parcels within the parking district not further then seven hundred fifty (750) feet from the building, or use they are intended to serve, measured in a straight line from the building. Any proposal to provide off-street parking spaces under this subsection is subject to the approval of the P~~p~~lanning C~~c~~ommission and shall be in accordance with the Aurora D~~d~~owntown I~~i~~mprovement P~~p~~lan.

C. If the developer or building owner so elects, he or she may pay a fee in lieu of providing parking, as designated by C~~c~~ity C~~c~~ouncil. Provided, however, the developer or building owner must provide a minimum of fifty (50) percent of the required parking spaces.

D. Where the city has used in-lieu parking fees received under this section for parking improvements or otherwise constructed city-owned parking improvements, including, but not limited to, paving, striping and catch basins. The cost of those improvements may be recovered by the city from the developer of property adjacent to such parking at the time the property is developed. The recovery costs shall reflect the costs of those improvements at the time the property is developed and is payable prior to issuance of a building permit.

E. The in-lieu parking fee shall be paid prior to issuance of a building permit.
(Ord. 415 § 7.82.020, 2002)

Chapter 16.30

NC NEIGHBORHOOD COMMERCIAL OVERLAY

Sections:

16.30.010 Purpose.
16.30.020 Applicability.
16.30.030 Permitted uses.
16.30.040 Conditional uses.
16.30.050 Development standards for uses in Section 16.30.030 or 16.30.040.

16.30.010 Purpose.

The neighborhood commercial (NC) overlay promotes development that combines small scale commercial uses and residential uses in a single building or complex. This overlay will allow increased development on major streets while avoiding a strip commercial appearance and encourage the development of areas where residential and commercial uses mix in a harmonious manner.

The emphasis of the nonresidential uses is primarily on locally-oriented retail, service, and office uses. Development is intended to be pedestrian-oriented with buildings close to and directly accessible from pedestrian accessways. Parking may be shared between residential and commercial uses.

The neighborhood commercial overlay is not intended to restrict uses permitted in the base zone.

(Ord. 415 § 7.84.010, 2002)

16.30.020 Applicability.

The neighborhood commercial overlay may be applied to any property fronting on Highway 99 or Ehlen Road for the first two hundred (200) feet as measured perpendicular from the Highway 99 or Ehlen Road right-of-way line, and to any property fronting on Airport Road between Ehlen Road and north property line of Tax Lot 04-1W-12C-01900 on the east side of Airport Road, and to any property fronting on Airport Road between Ehlen Road and the north property line of Tax Lot 04-1W-12C-504 on the west side of Airport Road (a distance of approximately four hundred (400) feet from the Airport/Ehlen Road intersection) for the first two hundred (200) feet as measured from the Airport Road right-of-way line.

(Ord. 415 § 7.84.020, 2002)

16.30.030 Permitted uses.

The neighborhood commercial overlay allows the following uses and their accessory uses in addition to the uses permitted in the base zone and subject to Chapter 16.58 when the aggregate total of required parking for all uses on a parcel or lot does not exceed twenty (20) required parking spaces:

A. Bicycle sales or repair;

B. Cultural exhibits and library services;

C. Day care facility licensed by state;

D. Residential dwelling units located in the same building as a commercial use either above or behind the commercial use where the square footage of the commercial uses exceeds the square footage of the residential uses;

E. Eating and drinking establishments without drive-in windows;

F. Financial, insurance and real estate offices;

G. General retail and convenience sales, except adult bookstores;

H. Indoor recreation facilities;

I. Medical or dental offices;

J. Multifamily (four units or more) containing no more than eight units per building with fifteen (15) foot separations between buildings outside the historic residential overlay when the base zoning is

R-2, moderate density residential, commercial or industrial;

K. Professional and administrative offices;

L. Public transportation passenger terminal or taxi stand;

M. Repair services for household and personal items, excluding motorized vehicles;

N. Studios, including art, photography, dance, and music;

~~O. Residential care facilities outside the historic residential overlay when the base zoning is R-2, moderate density residential, commercial or industrial. (Ord. 415 § 7.84.030, 2002)~~

16.30.040 Conditional uses.

The following uses and their accessory uses may be permitted in the neighborhood commercial overlay when authorized by the P~~p~~lanning C~~c~~ommission in accordance with the requirements of Chapter 16.60, other relevant sections of this title and any conditions imposed by the P~~p~~lanning C~~c~~ommission:

A. Uses permitted in the base zone or Section 16.30.030 when the aggregate total of required parking for all uses on a parcel or lot is greater than twenty (20) required parking spaces and less than forty (40) required parking spaces.

(Ord. 415 § 7.84.040, 2002)

16.30.050 Development standards for uses in Section 16.30.030 or 16.30.040.

The standards of the base zone shall apply except as follows:

A. Structures containing commercial uses shall have no minimum front setback and a maximum ten (10) foot landscaped front setback. The P~~p~~lanning C~~c~~ommission may approve increases in the maximum front setback where such exception is necessary to locate a landscaped storm water retention/detention facility in the front setback.

B. Where a parcel or lot has frontage on Highway 99 or Ehlen Road and a secondary street frontage, the setback from the secondary street frontage shall be a minimum of ten (10) feet.

C. The rear yard setback shall be a minimum of ten (10) feet and shall be buffered and screened in accordance with Chapter 16.38.

D. Residential garages for structures permitted under the neighborhood commercial overlay shall be oriented in a manner that does not require vehicles to back out onto Highway 99 or Ehlen Road. The setback for the garage door approach (the point where a vehicle accesses the garage) shall be a minimum of twenty (20) feet from any public street right-of-way.

E. Setback requirements shall not apply to transit shelters.

F. Minimum lot areas shall be in accordance with the base zoning except the minimum lot area for residential uses located on the same lot or parcel as commercial uses shall be the square footage necessary to contain all required improvements including landscaping and parking.

G. Building heights shall be in accordance with the base zoning. All structures containing dwelling units shall utilize at least two of the following design features to provide visual relief along the street frontage:

1. Dormers;
2. Recessed entries;
3. Cupolas;
4. Bay or bow windows;
5. Gables;
6. Covered porch entries;
7. Pillars or posts;

8. Eaves (minimum six inch projection); or

9. Off-sets on building face or roof (minimum sixteen (16) inches).

H. Impervious surfaces shall not cover more than eighty (80) percent of the lot or parcel for commercial uses and sixty (60) percent for residential uses except impervious surfaces may cover up to ninety (90) percent of lots or parcel when structures contain both residential and commercial uses.

I. Except for residential uses allowed under the base zoning, parking shall not be located between the Highway 99 or Ehlen Road rights-of-way and any structure and shall be constructed in accordance with Chapter 16.42.

J. Landscaping requirements shall be in accordance with Chapter 16.38 except the minimum requirement landscaping for lots or parcels containing both residential and commercial uses shall be ten (10) percent.

K. All properties located outside the designated historic commercial overlay and the historic residential overlay and adjacent to Highway 99 or Ehlen Road shall be collectively referenced as "gateway properties." The standards of Chapter 16.56 shall apply to all aspects of the such properties, including but not limited to, structural facade, yard and landscaping, immediately adjacent to and visible from Highway 99 or Ehlen Road.

L. Additional requirements shall include any applicable section of this title.

(Ord. 419 § 5, 2002; Ord. 415 § 7.84.050, 2002)

Chapter 16.32

ENVIRONMENTAL PERFORMANCE STANDARDS

Sections:

16.32.010 Purpose.
16.32.020 General provisions.
16.32.030 Noise.
16.32.040 Visible emissions.
16.32.050 Vibration.
16.32.060 Odors.
16.32.070 Glare and heat.
16.32.080 Insects and rodents.
16.32.090 Electrical/electronic interference.

16.32.010 Purpose.

The purpose of this chapter is to apply the federal and state environmental laws, rules, and regulations to all land use within the city. (Ord. 415 § 7.90.010, 2002)

16.32.020 General provisions.

A. In addition to the regulations adopted in this chapter, each use, activity or operation within the city shall comply with the applicable state and federal standards pertaining to noise, odor and discharge of matter into the atmosphere, ground, sewer system, or stream. Regulations adopted by the State Environmental Quality commission pertaining to non-point source pollution control and contained in the Oregon Administrative Rules shall by this reference be made a part of this chapter.

B. Prior to issuance of a building permit, the P~~p~~lanning D~~d~~irector may require submission of evidence demonstrating compliance with state, federal and local environmental regulations and receipt of necessary permits including but not limited to: Air Contaminant Discharge Permits (ACDP), National Pollutant Discharge Elimination System Storm Water Discharge Permit (1200-c) or Indirect Source Construction Permits (ISCP).

C. Compliance with state, federal and local environmental regulations is the continuing obligation of the property owner and operator.

(Ord. 415 § 7.90.020, 2002)

16.32.030 Noise.

For the purposes of noise regulation, the provisions of the underlying zone and the current version of the Aurora public nuisance ordinance shall apply. (Ord. 415 § 7.90.030, 2002)

16.32.040 Visible emissions.

Within any zoning district, there shall be no use, operation or activity which results in a stack or other point source emission, other than an emission from space heating, or the emission of pure uncombined water (steam) which is visible from a property line. Department of Environmental Quality rules for visible emissions (340-21-015 and 340-28-070) apply.

(Ord. 415 § 7.90.040, 2002)

16.32.050 Vibration.

No vibration which is discernible without instruments at the property line of the use concerned, other than that caused by highway vehicles, trains and aircraft, is permitted in any given zoning district.

(Ord. 415 § 7.90.050, 2002)

16.32.060 Odors.

The emission of odorous gases or other matter in such quantities as to be readily detectable at any point beyond the property line of the use creating the odors is prohibited. DEQ rules for odors (340-028-090) apply.

(Ord. 415 § 7.90.060, 2002)

16.32.070 Glare and heat.

No direct or sky-reflected glare, whether from floodlights or from high temperature processes such as combustion or welding or otherwise, which is visible at the property line shall be permitted, and:

A. There shall be no emission or transmission of heat or heated air which is discernible at the property line of the source; and

B. These regulations shall not apply to signs or floodlights in parking areas or construction equipment at the time of construction or excavation work otherwise permitted by this title.

(Ord. 415 § 7.90.070, 2002)

16.32.080 Insects and rodents.

All materials including wastes shall be stored and all grounds shall be maintained in a manner which will not attract or aid the propagation of insects or rodents or create a health hazard. (Ord. 415 § 7.90.080, 2002)

16.32.090 Electrical/electronic interference.

Within any zoning district, there shall be no use, operation or activity which results in any off-site electrical or electronic interference.

(Ord. 415 § 7.90.090, 2002)

Chapter 16.34

PUBLIC IMPROVEMENT AND UTILITY STANDARDS

Sections:

16.34.010 Purpose.
16.34.020 General provisions.
16.34.030 Streets.
16.34.040 Blocks and lots.
16.34.050 Easements.
16.34.060 Sidewalks.
16.34.070 Public use areas.
16.34.080 Sanitary sewers.
16.34.090 Storm drainage.
16.34.100 Water system.
16.34.110 Bikeways.
16.34.120 Utilities.
16.34.130 Noise, dust and visual barriers.
16.34.140 Performance guarantee.
16.34.150 Monuments.
16.34.160 Installation/technical review fee.
16.34.170 Improvement procedures.
16.34.180 Plan checking required.
16.34.190 Acceptance of improvements.
16.34.200 Engineer's certification required.
16.34.210 Pedestrian Circulation

16.34.010 Purpose.

The purpose of this chapter is to inform applicants of general design standards for street and utility improvements and maintain consistency between this title, the Aurora transportation system plan and the public works design standards and specifications.
(Ord. 415 § 7.92.101, 2002)

16.34.020 General provisions.

A. The standard specifications for construction, reconstruction or repair of streets, sidewalks, curbs and other public improvements within the City shall occur in accordance with the standards of this title, the public works design standards, the transportation system plan and county or state standards, including but not limited to the Uniform Fire Code, where applicable.

B. The City Engineer may require changes or supplements to the standard specifications consistent with the application of engineering principles.

C. All applications for development shall conform to the standards established by this chapter.
(Ord. 419 § 15, 2002; Ord. 415 § 7.92.020, 2002)

16.34.030 Streets.

A. No development shall occur unless the development has frontage on or approved access to a public street:

1. Whenever existing streets adjacent to or within a tract are of inadequate width, additional right-of-way shall be provided at the time of land division. Any new street or additional street width shall be dedicated and improved in accordance with this title, the Aurora transportation system plan and the public works design standards and specifications.

Street Design Standards[1]

Classification	Pavement Width (ft)	Sidewalks Width (ft)	Planting Strips (ft)	Bikeway Width (ft)	Parking	ROW (ft)[2]
Local Residential[3][4]	32	5	5	None	2 sides	54
Collector[4]	36	6	7.5	None[4]	2 sides[4]	65
Minor Arterial (County)[4][6][7]	36	6	8	6	None	68
Principal Arterial (County) [7][8]	50	6	9.5	6	None	84
Principal Arterial (State)[9]	48-50	8	6	6	None	84
Alleys	16	None	None	None	None	16

Notes:
(1) Street Design Standards for roadways within the National Historic District are subject to H~~h~~istoric R~~r~~eview B~~b~~oard approval on a case-by-case basis.
(2) Additional right-of-way and roadway improvements may be required at major intersections to provide for turn lanes and for corner radii.
(3) Planter strips are required unless approved otherwise by the City. Planting strips should be at least 4 feet wide to accommodate tree plantings. In commercially zoned areas, the City may require wider sidewalks which encroach into the planting strip area.
(4) Collectors serving residential areas and historic commercial areas can accommodate on-street parking and shared use of road space by bicyclists and motor vehicles. These shared roadways will be designated with "sharrows." "Sharrows" are markings painted directly onto the road to promote the awareness that the road is a shared traffic lane to be used by both motorists and bicyclists. Collector Streets which serve primarily a mix of commercial and industrial properties will have bike lanes in lieu of on-street parking.
(5) On an interim basis, two 6-8 foot protected shoulders may be installed adjacent to two 12-foot travel lanes, on a case-by-case basis as approved by the County.
(6) City standards are advisory to Marion County on Marion County-owned roadways
(7) On an interim basis, a multi-use path, separated from the roadway, and on-street bike lanes may be allowed instead of sidewalks and planting strips on a case-by-case basis as approved by the County.
(8) City standards are advisory on ODOT managed roadways

2. Subject to AMC 16.78 and approval of the Planning Commission, the City may accept and record a non-remonstrance agreement in lieu of street improvements if the following conditions exist:

a. A partial improvement creates a potential safety hazard to motorists or pedestrians; or

b. Due to the nature of existing development on adjacent properties it is unlikely that street improvements would be extended in the foreseeable future and the improvement associated with the project under review does not, by itself, provide a significant improvement to street safety or capacity.

3. Subject to AMC 16.78 and approval of the Planning Commission, the City may accept a payment in lieu of street improvements. To propose a payment in lieu of street improvements, the applicant shall prepare an engineering estimate for the costs of engineer, design and construction of the

required frontage improvements. City staff will review and approve the engineering cost estimate and calculate the payment in lieu of street improvements. The payment in lieu of street improvements will generally be set at two-thirds of the estimated cost. Payment in lieu of street improvement funds collected by the City will be used to pay for improvements within public rights of way within the Aurora city limits.

4. New structures that are proposed to be constructed on lots abutting an existing public street that does not meet the minimum standards for right of way width shall provide setbacks sufficient to allow for the future widening of the right of way. Building permits shall not be issued unless yard setbacks equal to the minimum yard requirements of the zoning district plus the required minimum additional right of way width is provided.

B. Rights-of-way shall normally be created through the approval of a final partition or subdivision plat.

1. The Council may approve the creation of a street by deed of dedication if any establishment of a street is initiated by the council and is found to be essential for the purpose of general traffic circulation, and partitioning of subdivision of land has an incidental effect rather than being the primary objective in establishing the road or street for public use.

2. All deeds of dedication shall be in a form prescribed by the City and shall name "the City of Aurora, Oregon" or "the public," whichever the City may require, as grantee.

3. All instruments dedicating land to public use shall bear the approval by the M~~m~~ayor accepting the dedication prior to recording.

4. No person shall create a street or road for the purpose of partitioning an area or tract of land without the approval of the city.

C. Subject to AMC 16.78, the Planning Commission may approve a private street established by deed for a subdivision containing no more than five total lots or for a partition provided such an approval is the only reasonable method by which a lot large enough to develop can develop when all of the following criteria are satisfied:

1. Private streets shall serve no more than five dwellings and the city shall require legal assurances for the continued access and maintenance of private streets, such as a reciprocal access and maintenance agreement recorded with Marion County.

2. Private streets which exceed one hundred fifty (150) feet shall be improved in accordance with the Uniform Fire Code.

3. Private streets shall be improved in accordance with the public works design standards, and shall be a minimum of twenty (20) feet in width with a paved width of eighteen (18) feet.

4. If the establishment of a building site requires the creation of a private street for access, the total area of the street will not be applicable to the square footage requirements of the lot.

D. When location is not shown in the Aurora transportation system plan, the arrangement of the streets shall either:

1. Provide for the continuation or appropriate projection of existing streets in the surrounding areas, or conform to a plan for the neighborhood approved by the Planning Commission to meet a particular situation where topographical or other conditions make continuance or conformance to existing street impractical. Such a plan shall be based on the type of land use to be served, the volume of traffic, the capacity of adjoining streets and the need for public convenience and safety.

2. New streets shall be laid out to provide reasonably direct and convenient routes for walking and cycling within

neighborhoods and accessing adjacent development.

E. Street right-of-way and roadway widths shall be as shown in the Aurora transportation system plan, except all streets constructed in the National Historic District shall require approval by the H~~h~~istoric R~~r~~eview B~~b~~oard and shall be constructed consistent with the Aurora downtown improvement plan and Title 17, Historic Preservation. Where conditions, particularly topography or the size and shape of the tract, make it impractical to otherwise provide buildable sites, narrower right-of-way may be accepted. If necessary, slope easements may be required.

F. Reserve strips or street plugs controlling access to streets will not be approved unless necessary for the protection of the public welfare or of substantial property rights, and in those cases, they may be required. The control and disposal of the land comprising such strips shall be placed within the jurisdiction of the City under conditions approved by the Planning Commission.

G. Except for extensions of existing streets, no street name shall be used which will duplicated or be confused with the name of an existing street. Street names and numbers shall conform to the established pattern in the City and shall be subject to the approval of the Planning Commission.

H. Streets shall be laid out to intersect at angles as near to right angles as practical except where topography requires a lesser angle, but in no case shall the acute angle be less than eighty (80) degrees, unless there is a special intersection design. An arterial or collector street intersecting with another street shall have at least one hundred (100) feet of tangent adjacent to the intersection, unless topography requires a lesser distance. Other streets, except alleys, shall have at least five hundred (500) feet of tangent to the intersection unless topography requires a lesser distance. Intersections which contain an acute angle of less than eighty (80) degrees, or which include an arterial street, shall have a minimum corner radius sufficient to allow for a roadway radius of twenty (20) feet and maintain a uniform width between the roadway and right-of-way line. Ordinarily, the intersection of more than two streets at any point will not be approved.

I.(1) Half streets, while generally not acceptable, may be approved where essential to the reasonable development of the site when in conformity with the other requirements of these regulations, and when the Planning Commission finds it will be practical to require the dedication of the other half when adjoining property is divided or developed. Whenever a half street is adjacent to a tract to be divided or developed, the other half of the street shall be provided within such tract. Reserve strips and street plugs pursuant to subsection E of this section may be required to preserve the objectives of half streets.

(2) Where a half street improvement is otherwise acceptable, and additional development and/or redevelopment is expected to result in completion of the remaining half street sometime in the future, three-quarter street improvements are required in lieu of half street improvements.

J. A cul-de-sac shall be as short as possible, shall have a maximum length of four hundred (400) feet and shall serve building sites for not more than eighteen (18) dwelling units. A cul-de-sac shall terminate with a circular turnaround.

K. Grades shall not exceed six percent on arterials, ten (10) percent on collector streets, or twelve (12) percent on other streets. Center line radii of curves shall not be less than three hundred (300) feet on major arterials, two hundred (200) feet on

secondary arterials, or one hundred (100) feet on other streets and shall be to an even ten (10) feet. Where existing conditions, particularly the topography, make it otherwise impractical to provide building sites, the Planning Commission may accept steeper grades and sharper curves. In no case shall a grade exceed sixteen (16) percent. In flat areas, allowance shall be made for finished street grades having a minimum slope of at least one-half of one percent.

L. Wherever the proposed land division or development contains or is adjacent to a railroad right-of-way, provision may be required for a street approximately parallel to and on each side of such right-of-way at a distance suitable for the appropriate use of the land between the streets and the railroad. The distance shall be determined with due consideration at cross streets of the minimum distance required for approach grades to a future grade separation and to provide sufficient depth to allow screen planting along the railroad right-of-way.

M. Where an adjacent development results in a need to install or improve a railroad crossing, the cost for such improvements may be a condition of development approval, or another equitable means of cost distribution shall be determined by the City Engineer and approved by the Planning Commission.

N. Where a land division or development abuts or contains an existing or proposed arterial street, the Planning Commission may require marginal access streets, reverse frontage lots with suitable depth, screen planting contained in a nonaccess reservation along the rear or side property line, or other treatment necessary for adequate protection of residential development design shall provide adequate protection for residential properties, and to afford separation of through and local traffic.

O. Alleys shall be provided in commercial and industrial districts, unless other permanent provisions for access to off-street parking and loading facilities are approved by the Planning Commission. The corners of alley intersections shall have a radius of not less than twelve (12) feet.

P. Concrete vertical curbs, curb cuts, wheelchair, bicycle ramps and driveway approaches shall be constructed in accordance with standards in the City's public works design standards as required by the Aurora transportation system plan. Driveways shall be asphalt or concrete, not less than four inches deep or two inched of asphalt on four inches of three-fourths-inch minus gravel, or other hard durable and dustless surfaces such as cobblestone, unit masonry, scored and colored concrete, grasscrete, or combinations of the above. Driveway width shall be 12' minimum and 24' maximum for two-car garages and up to 36' for three- car garages, unless otherwise approved by the City.

Q. Upon completion of a street improvement and prior to acceptance by the City, it shall be the responsibility of the developer's registered professional land surveyor to provide certification to the City that all boundary and interior monuments shall be established or re-established, protected and recorded.

R. The developer shall install all street signs, relative to traffic control and street names, as specified by the Public Works Director for any development. The cost of signs shall be the responsibility of the developer.

S. The location of traffic signals shall be noted on approved street plans, and where a proposed street intersection will result in an immediate need for a traffic signal, a city-approved signal shall be installed. The cost shall be included as a condition of development.

T. Street lights shall be installed in accordance with the City's public works design standards and shall be consistent with AASHTO standards. Street lights shall be served from an underground source of supply**.** Street lighting shall be subject to review and approval of the Oregon Department of Transportation and Marion County as to location and style, where applicable.

U. Within 6 months of developing frontage improvements, two (2) inch caliper trees shall be installed in planting strips in accordance with the City of Aurora's street tree list. Prior to adoption of a street tree list, the City of Aurora's City Engineer will approve the street tree selection.

V. (1) Access spacing standards for streets and driveways are:

Spacing Requirements for Accesses on State, County, and City Roadways

Functional Classification	Distance (1)
Principal Arterial (State)	(2)
Principal Arterial (County)	400 from any intersection with Oregon 99E or Airport Road
	300 feet from any other intersection of private access
Minor Arterial (County)	400 feet from the intersection with Ehlen Road
	300 feet from any other intersection of private access
Collector	75 feet
Local Residential	16 feet

Notes:
(1) Distances are measured from inside edge of roadways and driveways, excluding driveway aprons.
(2) For access spacing requirements on Oregon 99E, consult Oregon Administrative Rules 734-051

Where spacing standards cannot be satisfied, joint and cross access and shared driveways are encourages pursuant to 16.34.030(V) (2) & (3).

(2) Where access spacing standards cannot be satisfied, a shared driveway serving no more than two residences may be permitted with a recorded reciprocal access and maintenance agreement.
(3) Where access spacing standards cannot be satisfied, adjacent non-residential properties are encouraged to develop a system of joint use driveways and crossover easements for vehicles and pedestrians. Pursuant to this section, property owners developing a system of joint use driveways and crossover easements shall:

(a) Record an easement with the deed allowing cross access to and from other properties served by the joint use driveways and cross access or service drive

(b) Record an agreement with the City of Aurora stating that pre-existing driveways will be closed and eliminated after construction of the joint-use driveway

(c) Record a joint maintenance agreement with the deed defining maintenance responsibilities of property owners

(4) New property access shall not be permitted within fifty (50) feet of an intersection unless no other reasonable access to property is available. Where no other alternatives exist, the City may allow construction of an access connection at a point less than 50 feet from an intersection,

provided the access is as far away from the intersection as possible. In such cases, the City may impose turning restrictions (i.e., right in/out, right in only, or right out only)

W. Traffic Operations Standards

Roadway Functional Classification [1, 2]	Intersection Type	Operations Standards
Local Residential	Signalized, All-way Stop & Roundabout	LOS D
	Unsignalized	LOS E
Collector	Signalized, All-way Stop & Roundabout	LOS D
	Unsignalized	LOS E
Minor Arterial (County) [3]	Signalized, All-way Stop & Roundabout	LOS D .85 V/C
	Unsignalized [4]	LOS E .90 V/C
Principal Arterial (County) [3]	Signalized, All-way Stop & Roundabout	LOS D .85 V/C
	Unsignalized [4]	LOS E .90 V/C
Principal Arterila (State) [5]	Regional Highway	[5]
	Regional Highway (STA)	[5]

Notes:

1) For intersections where state owned roadways cross city or county owned roadways, state traffic operations standards are used in place of city and/or county standards. Where county owned roadways cross local roadways, county operations standards are used in place of city standards.
2) For intersections where two roadways owned by the same jurisdiction cross, the traffic operations standards of the street with the higher functional classification are used (Collector is higher than Local Residential and Principal Arterial is higher than Minor Arterial)
3) Source: Marion County Regional Transportation System Plan
4) LOS F may be allowed at county-owned unsignalized intersections if the movement has relatively low volume (as determined by County staff) and there is no indication that a safety problem will be created
5) Oregon Department of Transportation operations standards apply to Oregon 99E within the City of Aurora. Within the City, Oregon 99E has two designations, each with its own operations standard, The portion of Oregon 99E from Liberty Street to 4th Avenue is a Regional Highway with Special Transportation Area designation. The remaining portion of Oregon 99E is a Regional Highway.

(Ord. 462 § 1, 2011)

16.34.040 Blocks and lots.

A. The length, width, and shape of blocks shall take into account the need for adequate building site size and street width, and shall recognize the limitations of the topography.

B. No block shall be more than one thousand (1,000) feet in length between street corner lines unless it is adjacent to an arterial street, or unless the topography or the location of adjoining streets justifies an exception. The recommended minimum length of blocks along an arterial street is one thousand eight hundred (1,800) feet. A block shall have sufficient width to provide for two tiers of building sites unless topography or the location of adjoining streets justifies the exception.

C. Through lots and parcels shall not be permitted except where they are essential to provide separation of residential development from major traffic arteries or adjacent nonresidential activities, or to overcome specific disadvantages or topography and orientation. A planting screen easement at least ten (10) feet wide, and across which there shall be no right of access, shall be required along the line of building sites abutting such a traffic artery or other incompatible use. The planting screen easement shall be landscaped in accordance with the requirements for screening in Chapter 16.38.

D. The lines of lots and parcels, as far as is practicable, shall run at right angles to the street upon which they face, except that on curved streets they shall be radial to the curve.

E. Subject to AMC 16.78, the Planning Commission may approve the creation of a flag lot for residential development when necessary to achieve planning objectives, such as reducing direct access to roadways, providing existing internal platted lots with access to a residential street, meeting the desired density standards for the zone, or preserving natural or historic resources, when all of the following criteria are satisfied:

1. The depth of the existing legal lot of record is equal to or more than two times the lot depth required by the zone;

2. The result would not increase the number of properties requiring direct and individual access connections to the State Highway System or other arterials;

3. No more than one lot shall be permitted per deeded access flag;

4. All affected driveways shall meet the access spacing standards found in 16.34.030(V)(1) except where flag lots on adjacent properties share a common property line and the driveway for each flag lot is constructed immediately adjacent to the common property line and functions as a shared driveway with a recorded reciprocal access and maintenance agreement; and

5. The flag access shall have a minimum width of twenty (20) feet and a maximum width of twenty five (25) feet (Ord. 419)

6. The flag driveway shall have a minimum paved width of twelve (12) feet; and

7. In no instance shall flag lots constitute more than two lots in a partition or a subdivision; and

8. The lot area for a flag lot shall comply with the lot area requirements of the applicable zoning district and shall be provided entirely within the building site area exclusive of any accessway.

(Ord. 462 § 1, 2011; Ord. 419 § 18, 2002; Ord. 415 § 7.92.040, 2002)

16.34.050 Easements.

Easements for sewers, drainage, water mains, electric lines or other public utilities shall be granted wherever necessary. The easements shall be at least twelve (12) feet wide and centered on lot or parcel lines,

except for utility pole tieback easements which may be reduced to six feet in width. The property owner proposing a development shall make arrangements with the City, the applicable district and each utility franchise for the provision and dedication of utility easements necessary to provide full services to the development.

B. If a tract is traversed by a watercourse, such as a drainageway, channel or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of such watercourse and such further width as will be adequate for the purpose. Streets or parkways parallel to the major water courses may be required.

C. When desirable for public convenience, a pedestrian or bicycle way may be required to connect a cul-de-sac or to pass through an unusually long or oddly shaped block or otherwise provided appropriate circulation.

(Ord. 415 § 7.92.050, 2002)

16.34.060 Sidewalks.

A. On public streets, sidewalks are required except as exempted by the Aurora transportation system plan and shall be constructed, replaced or repaired in accordance with the City's public works design standards, Appendix A Illustrations 10, 11 and 12 set out at the end of this title. If properties are located in the historic commercial or historic residential overlay, sidewalks shall be constructed in accordance with the Aurora downtown improvement plan and the City of Aurora Design Review Guidelines for Historic District Properties, set out in the Appendix to this code.

B. Maintenance of sidewalks and curbs is the continuing obligation of the adjacent property owner.

C. The City may accept and record a non-remonstrance agreement for the required sidewalks from the applicant for a building permit for a single-family residence when the Public Works Director determines the construction of the sidewalk is impractical for one or more of the following reasons:

1. The residence is an in-fill property in an existing neighborhood and adjacent residences do not have sidewalks;

2. Topography or elevation of the sidewalk base area makes construction of a sidewalk impractical.

(Ord. 415 § 7.92.060, 2002)

D. Sidewalk Seating and Displays

1. Definitions

"Accessible route" means a sidewalk at least four (4) feet in width which has seven (7) feet of vertical clearance.

"Adjacent sidewalk" means that portion of a public sidewalk between the curb line and the property line demarcated by extending the side building lines of the premises until they intersect the curb.

"Clearances" as referenced in this section are measured horizontally from the outside edge of the sidewalk seating and/or display delineation to any obstruction on the ground greater than one-half inch in height, or to an adjacent projection such as tree limbs, tree wells, banners, signs, bike racks, lamp posts or any other fixtures. Accessible routes clearance shall be no less than four (4) feet in width and no less than seven (7) feet in height for the entire length of the accessible route. Radiuses along an accessible route shall be no less than four (4) feet in width.

"Liability insurance" as reference in this section requires a signed statement that the permittee shall hold harmless the city, its officers and employees, and shall indemnify the city, its officers and employees for any claims for damages to property or injury to persons which may occur in connection with an activity carried on under the terms of the permit. Permittee shall furnish and maintain such public liability, liquor liability, food products liability, and property damages insurance as will protect permittee and city

from all claims for damage to property or bodily injury, including death, which may arise from operations under the permit or in connection therein. Such insurance shall provide coverage or not less than the amount of municipal tort liability under the Oregon Tort Claims Act. The permittee shall name the City of Aurora as an additional insured by attaching an endorsement to the certificate of insurance (provided by the city). Such insurance shall be without prejudice to *coverage* otherwise existing therein, and shall name as additional insured by city, its officers, and employees, and shall further provide that the policy shall not terminate or be canceled prior to expiration of the permit without 30 days written notice to the city.
(Ord. 464, 2011)

2. Permitted Uses.
All business, service, repair, storage of merchandise displays shall be conducted wholly within the property line of the subject parcel except the following:

A. Displays for sale purposes of small merchandise in relation to the fronting business shall be removed to the interior of the business after business hours;

B. Displays, for sale purposes in relation to the fronting business, of *live* trees, shrubs and other plants, flowers, or produce; and

C. Outdoor seating in relation to a permitted eating or drinking establishment subject to the criteria below.
(Ord. 464, 2011)

3. Application submission requirements:

A. Required information may be combined on one map. Site plan(s) shall include the following information, as appropriate:

1. Evidence of Liability Insurance;

2. A vicinity map showing the proposed site and surrounding properties;

3. The site size and its dimensions;

4. The location and dimension of all proposed:

a. Entrances and exits on the site,

b. Loading and services areas, where applicable,

c. Proposed placement of outdoor seating and location of tables and related material to be placed within the public right-of-way.

B. Businesses which intend to serve alcoholic beverages must additionally submit the following application requirements:

1. Verification of a valid Oregon Liquor Control Commission permit.

2. Except for glasses, bottles, pitchers, and carafes that are being served to customers. No taps, kegs, coolers, or other alcoholic beverage storage devices are allowed on the sidewalk.

3. Signage at the access/exit point prohibiting the removal of alcoholic beverages from the licensed seating areas.
(Ord. 464, 2011)

4. Approval Standards and Criteria:

A. The City Recorder or designee shall review the application for compliance with the following criteria:

1. The outdoor seating shall be located such that there is a minimum of four (4) feet of clear and unobstructed accessible route to a height of 7 feet measure vertically from grade between the seating and tree limbs, bike racks, lamp posts, sign posts and any other fixtures or obstructions.

2. The location of the outdoor seating shall be approved by the City Recorder or designee.

3. The operation of a outdoor seating requires that trash containers be provided on site and removed at the end of business hours.

4. All materials, with the exception of tables and seating, shall be removed at the end of each business day.

5. Seating and permit is limited to the area adjacent to the subject business.

6. No signage shall be attached to any furniture or any other structure related to the operation of the business.

7. No use of city fixtures shall be permitted.

8. Outdoor seating shall correspond with the operation of business hours.
(Ord. 464, 2011)

16.34.070 Public use areas.

A. If the City has an interest in acquiring a portion of a proposed subdivision or development for a public purpose, or if the City has been advised of such interest by a school district or other public agency, and there is reasonable assurance that steps will be taken to acquire the land, then the Planning Commission may require that those portion of the subdivision or development be reserved for public acquisition for a period not to exceed one year at a cost not to exceed the value of the land prior to the subdivision or development or such land shall be released to the property owner.

B. Within or adjacent to a subdivision, a parcel of land may be set aside and dedicated to the public by the subdivider. The size of this parcel shall be determined by the distance from the existing city parks and the number of people to be housed by the subdivision. The parcel shall be approved by the Planning Commission as being suitable and adaptable for park and recreation areas. The developer may be eligible for credit on parks systems development charges for such a dedication.
(Ord. 415 § 7.92.070, 2002)

16.34.080 Sanitary sewers.

A. Sanitary sewers shall be installed to serve each new development and to connect developments to existing mains in accordance with the provisions set forth by the City's public works design standards and the adopted policies of the comprehensive plan.

B. The City Engineer shall approve all sanitary sewer plans and proposed systems prior to issuance of development permits involving sewer service.

C. Proposed sewer systems shall include consideration of additional development within the area as projected by the comprehensive plan and the wastewater treatment facility plan and potential flow upstream in the sewer sub-basin.

D. In areas that will not be served by a public sewer, minimum lot and parcel sizes shall permit compliance with the department of environmental quality and shall take into consideration problems of sewage disposal, particularly problems of soil structure and water table as related to sewage disposal by septic tank. In the event the city trunk system is not yet in place, septic systems may be used until such time as it becomes possible to connect to a sewer system. However, sewer laterals designed for future connection to a sewage disposal system shall be installed and sealed. If such required sewer facilities are capable of serving property outside the subdivision, without further construction, the following arrangements will be made to equitably distribute the cost:

1. If the area outside the subdivision to be directly served by the sewer line has reached a state of development to justify sewer installation at the time, the Planning Commission may recommend to the City Council construction as an assessment project with such arrangement with the subdivider as is desirable to assure financing his share of the construction.

2. If the installation is not made as an assessment project, the City will reimburse the subdivider an amount estimated to be a proportionate share of the cost for each connection made to the sewer by property owners outside of the subdivision for a period of ten (10) years from the time of installation of the sewers. The actual amount shall be as determined by the Planning Commission at the time of approval of the plat considering current construction costs.

E. Applications shall be denied by the approval authority where a deficiency exists in the existing sewer system or portion

thereof which cannot be rectified within the development and which if not rectified will result in a threat to public health or safety, surcharging of existing mains, or violations of state or federal standards pertaining to operation of the sewage treatment system.
(Ord. 415 § 7.92.080, 2002)

16.34.090 Storm drainage.

A. The Planning Director, City Engineer and Public Works Director shall issue permits only where adequate provisions for stormwater and floodwater runoff have been made, and:

1. The stormwater drainage system shall be separate and independent of any sanitary sewerage system;

2. Where possible, inlets shall be provided so surface water is not carried across any intersection or allowed to flood any street;

3. Surface water drainage patterns shall be shown on every development proposal plan;

4. All stormwater analysis and calculations shall be submitted with proposed plans for review and approval;

5. All stormwater construction materials shall be subject to approval of the City Engineer.

B. A culvert or other drainage facility shall, and in each case be, large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the development. The City Engineer shall determine the necessary size of the facility.

C. Where it is anticipated by the City Engineer that the additional runoff resulting from the development will overload an existing drainage facility, the Planning Director shall withhold approval of the development until provisions have been made for improvement of the potential condition or until provisions have been made for storage of additional runoff caused by the development.

D. Drainage facilities shall be provided within a subdivision or development and to connect the subdivision or development drainage to drainage ways or storm sewers off site. Design of drainage, as provided by the City Engineer, shall take into account the capacity and grade necessary to maintain unrestricted flow from areas draining through the subdivision or development and to allow extension of the system to serve such areas.

E. Street improvements shall include installation of catch basins connected to drainage tile leading to storm sewers or drainage ways.
(Ord. 415 § 7.92.090, 2002)

16.34.100 Water system.

The Planning Director and Public Works Director shall issue permits only where provisions for municipal water system extensions have been made, and:

A. Any water system extension shall be designed in compliance with the comprehensive plan existing water system plans;

B. Extensions shall be made in such a manner as to provide for adequate flow and gridding of the system;

C. The City Engineer shall approve all water system construction materials;

D. Water lines and fire hydrants serving each building site in the subdivision or development and connecting the subdivision or development to City mains shall be installed;

E. If required water mains will directly serve property outside the subdivision or development, the City will reimburse the subdivider or developer an amount estimated to be the proportionate share of the cost for each connection made to the water mains by property owners outside the

subdivision or development for a period of ten (10) years from the time of installation of the mains. The actual amount shall be as determined by the Planning Commission at the time of approval of the plat or development, considering construction costs.
(Ord. 415 § 7.92.100, 2002)

16.34.110 Bikeways.

A. Developments adjoining proposed bikeways as shown in the Aurora transportation system plan shall include provisions for the future extension of such bikeways through the dedication of easements or rights-of-way.

B. Minimum width for bikeways, where required, is six paved feet per travel lane.
(Ord. 462 § 1, 2011; Ord. 415 § 7.92.060, 2002)

16.34.120 Utilities.

A. All utility lines including, but not limited to those required for electric, communication, lighting and cable television services and related facilities shall be placed underground, except for surface-mounted transformers, surface-mounted connection boxes and meter cabinets which may be placed above ground, temporary utility service facilities during construction, high capacity electric lines operating at fifty thousand (50,000) volts or above, and:

1. The applicant shall make all necessary arrangements with the serving utility to provide the underground services;

2. The City reserves the right to approve location of all surface mounted facilities;

3. All underground utilities, including sanitary sewers, water lines, and storm drains installed in streets by the applicant, shall be constructed prior to the surfacing of the streets; and

4. Stubs for service connections shall be long enough to avoid disturbing the street improvements when service connections are made.

B. The applicant shall show on the development plan or in the explanatory information, easements for all underground utility facilities, and

1. Plans showing the location of all underground facilities as described herein shall be submitted to the City Engineer for review and approval; and

2. Aboveground equipment shall not obstruct vision clearance areas for vehicular traffic.
(Ord. 415 § 7.92.120, 2002)

16.34.130 Noise, dust and visual barriers.

When a subdivision abuts a state highway, the residence immediately adjacent to the highway must be protected from the adverse noise, dust and visual impacts of the highway by means of one of the following:

A. When abutting residences face the highway, access to the highway must be provided by a frontage road which shall comply to the design standards for a collector street as established in this title and any other standards required by the state of Oregon for streets which intersect with a state highway. The property between the outer edge of the frontage road and the state highway easement shall be planted with at least one row of deciduous and evergreen trees staggered and spaced not more than fifteen (15) feet apart.

B. When internal circulation is provided so that the back of adjacent residences are located on the state highway, one of the following barriers must be provided:

1. In an area not less than fifteen (15) feet in width, the planting of at least one row of deciduous and evergreen trees staggered and spaced not more than fifteen (15) feet apart, with at least one row of evergreen

shrubs planted on the highway side spaced not more than five feet apart, which will grow to form a continuous hedge at least five feet in height within one year of planting. Lawn, low growing evergreen shrubs, and evergreen ground cover shall cover the balance of the area.

2. In a planting area not less than ten (10) feet in width, an earth berm with a slope not more than forty (40) percent (1:25) on the highway side shall be constructed. On the side of the berm closer to residences, at least one row of deciduous and/or evergreen shrubs spaced not more than five feet apart shall be planted. Lawn, low growing evergreen shrubs, and evergreen ground cover shall cover the balance of the area.

3. In a planting area not less than five feet in width, a masonry wall not less than five feet in height shall be constructed, with dense evergreen hedges at least five feet high and/or earth berms planted/constructed on both sides. Lawn, low growing evergreen shrubs, and evergreen ground cover shall cover the balance of the area.

(Ord. 415 § 7.92.125, 2002)

16.34.140 Performance guarantee.

A. Prior to beginning any construction, the applicant shall assure the completion and maintenance of improvements by securing a bond, or placing cash in escrow, an amount equal to one hundred twenty-five (125) percent of the estimated cost of the improvements. Further, the applicant shall execute an agreement with the City Attorney regarding the repair, at the applicant's expense, of any public facilities damaged during development.

B. The period within which the required improvements must be completed shall be two years from the date of the approval. The Planning Commission, upon proof of extraordinary difficulty, may extend the completion date by one year.

C. All required improvements, including those involving oversized lines, shall be made by the applicant, without reimbursement by the City.

D. If the applicant fails to complete the required improvements within the time frame in subsection B of this section, the City may declare the applicant to be in default and call on the bond or escrow deposit to complete the improvements to the satisfaction of the City Engineer. If the amount of the bond or escrow deposit exceeds the cost of the completed improvements and the expenses incurred by the City, it shall release the remainder. If the cost to make the improvements and the related expenses incurred by the City exceeds the amount of the bond or escrow agreement, the applicant shall be liable to the City for the difference, together with any court costs and attorney's fees necessary to collect the costs and expenses from the applicant.

(Ord. 415 § 7.92.130, 2002)

16.34.150 Monuments.

Any monuments that are disturbed before all improvements are completed by the applicant shall be replaced and recorded prior to final acceptance of the improvements.

(Ord. 415 § 7.92.140, 2002)

16.34.160 Installation/technical review fee.

A. No improvements, including sanitary sewers, storm sewers, streets, sidewalks, curbs, lighting or other requirements shall be undertaken except after the plans have been approved by the City, and all applicable fees paid.

B. At the time construction drawings are submitted to the City for review, the applicant shall pay a technical review deposit. The deposit shall be used to defray

the expenses for such technical services as are necessary to review the construction drawings and insure that the proposed improvements will be constructed to City standards in accordance with accepted engineering practices. If the original deposit is not adequate to cover the cost of the technical review, the applicant shall pay the additional amount necessary to cover these costs prior to receiving approval of the construction drawings.
(Ord. 415 § 7.92.150, 2002)

16.34.170 Improvement procedures.

In addition to other requirements, improvements installed by the developer either as a requirement of these regulations or at the developers own option, shall conform to the requirements of this title and to improvement standards and specifications followed by the City, and shall be installed in accordance with the following procedure:

A. Improvement work shall not be commenced until plans have been checked for adequacy and approved by the City. To the extent necessary for evaluation of the proposal, the plans may be required before approval of the tentative plat of a subdivision or a partition or a design review.

B. Improvement work shall not commence until after the City is notified, and if work is discontinued for any reason, it shall not be resumed until after the City is notified.

C. Improvements shall be constructed under the inspection and to the satisfaction of the City Engineer. The City may require changes in typical sections and details in the public interest if unusual conditions arise during construction to warrant the change.

D. Underground utilities, sanitary sewers and storm drains, where required, are to be installed in streets prior to the surfacing of the streets. Stubs for service connections for underground utilities and sanitary sewers shall be placed to the length required to insure the street improvements will remain undisturbed when service connections are made.

E. A map showing public improvements as built shall be filed with the City upon completion of the improvements.

F. The City Engineer shall prepare and submit to the City Council specifications to supplement the standards of this title based on engineering standards appropriate for the improvements concerned. Specifications shall be prepared for the design and construction of required public improvements, such other public facilities as a developer may elect to install, and public streets.
(Ord. 415 § 7.92.160, 2002)

16.34.180 Plan checking required.

A. Work shall not begin until construction plans and a construction estimate have been submitted and checked for adequacy and approved by the City in writing. Three copies of the design drawings, drawn to scale and prepared by a registered engineer or surveyor, shall be submitted to the City Recorder, with the required deposit.

B. Drawings shall be drawn at a scale of one inch equals fifty (50) feet, and oriented so that north is to the top of the page, whenever practical. The title of the drawing, the date, including all revision dates, as well as the name, signature and stamp of the surveyor and/or engineer responsible for the drawings shall be shown.

C. Street and storm sewer systems shall be on the same set of drawings, with sewer and water systems on another set of drawings, whenever possible.

D. Plans and profiles shall show the locations and typical cross sections of street pavements, including, as applicable, curbs and gutters, sidewalks, rights-of-way,

manholes and catch inlets, direction of flow and invert elevations of existing and proposed sanitary sewers and storm sewer systems and fire hydrants.

E. The City Recorder shall distribute copies of the submitted drawings to city staff and affected agencies for a fourteen (14) day review period.

F. If the drawings are found to require changes, these shall be listed in a letter to the applicant, and no approval granted until drawings reflecting all of the modifications have been resubmitted.

(Ord. 415 § 7.92.170, 2002)

16.34.190 Acceptance of improvements.

A. Improvements shall be constructed under the inspection and to the satisfaction of the City. The City may require changes in typical sections and details if unusual conditions arising during construction warrant such changes in the public interest.

B. The City Council may accept the improvements only after all of the following have been completed:

1. The applicant has submitted a letter to the C~~c~~ouncil requesting the City accept the improvements;

2. The applicant has submitted two sets of as-built drawings;

3. The City's Engineer has approved the improvements and recommended acceptance;

4. If required, the applicant shall submit a maintenance bond or escrow agreement, in an amount not less than ten (10) percent of the cost of the improvements. The agreement shall run for at least one year, and may be required for two years, if the C~~c~~ouncil has good reason to believe that the improvements will fail due to workmanship and/or materials. Within this period, the applicant shall be required to correct all deficiencies of workmanship and/or materials that may arise within the development.

(Ord. 415 § 7.92.180, 2002)

16.34.200 Engineer's certification required.

The developer's engineer shall provide written certification that all improvements, workmanship and materials are in accord with current and standard engineering and construction practices, and are of high grade and that improvements were built according to plans and specifications, prior to City acceptance of the subdivision's improvements or any portion thereof for operation and maintenance.

(Ord. 415 § 7.92.190, 2002)

16.34.210 Pedestrian Circulation

To ensure safe, direct, and convenient pedestrian circulation, all developments, except single-family detached housing (i.e., on individual lots), shall provide a continuous pedestrian system. The pedestrian system shall be based on the standards in subsections A-C, below:

A. Continuous Walkway System. The pedestrian walkway system shall extend throughout the development site and connect to all future phases of development, and to existing or planned off-site adjacent trails, public parks, and open space areas to the greatest extent practicable. The developer may also be required to connect or stub walkway(s) to adjacent streets and to private property with a previously reserved public access easement for this purpose

B. Safe, Direct, and Convenient. Walkways within developments shall provide safe, reasonably direct, and convenient connections between primary building entrances and all adjacent streets, based on the following definitions:

1. Reasonably direct. A route that does not deviate unnecessarily from a

straight line or a route that does not involve a significant amount of out-of-direction travel for likely users.

2. Safe and convenient. Routes that are reasonably free from hazards and provide a reasonably direct route of travel between destinations.

3. "Primary entrance" for commercial, industrial, mixed use, public, and institutional buildings is the main public entrance to the building. In the case where no public entrance exists, street connections shall be provided to the main employee entrance.

4. "Primary entrance" for residential buildings is the front door (i.e., facing the street). For multifamily buildings in which each unit does not have its own exterior entrance, the “primary entrance” may be a lobby, courtyard, or breezeway which serves as a common entrance for more than one dwelling.

C. Connections Within Development. Connections within developments shall be provided as required below:

1. Walkways shall connect all building entrances to one another to the extent practicable;

2. Walkways shall connect all on-site parking areas, storage areas, recreational facilities and common areas, and shall connect off-site adjacent uses to the site to the extent practicable. Topographic or existing development constraints may be cause for not making certain walkway connections.

(Ord. 462 § 1, 2011)

Chapter 16.36

MANUFACTURED HOME REGULATIONS

Sections:

16.36.010 Purpose.
16.36.020 Definitions.
16.36.030 Manufactured homes outside manufactured home parks.
16.36.040 Manufactured home park standards.
16.36.050 Occupying recreational vehicles.

16.36.010 Purpose.

The purpose of this chapter is to establish criteria for the placement of manufactured homes in manufactured home parks or on individual building lots within the city, to provide standards for development of recreational vehicle parks and allow the temporary use of a manufactured home under certain circumstances.
(Ord. 415 § 7.94.010, 2002)

16.36.020 Definitions.

As used in this chapter:

"Anchoring system" means an approved system of straps, tables, turnbuckles, chains, ties, or other approved materials used to secure a manufactured home.

"Approved" means acceptable to the city and meeting all current federal, state, or local building and installation codes.

"Driveway" means a private road giving access from access way to a manufactured home space.

"Foundation siding/skirting" means a type of wainscoting constructed of fire and weather resistant material, such as aluminum, treated pressed wood or other approved materials, enclosing the entire under carriage of the manufactured home in a fashion consistent with adjoining areas.

"Manufactured Housing Construction and Safety Standards Code" means Code VI of the Housing and Community Development Act (42 U.S.C. 5401 et sequential), as amended (previously known as the Federal Mobile Home Construction and Safety Act), rules and regulations adopted thereunder (including information supplied by the home manufacturer, which has been stamped and approved by a Design Approval Primary Inspection Agency, an agent of the U.S. Department of Housing and Urban Development pursuant to HUD Rules) and regulations and interpretations of such Code by the Oregon Department of Commerce; all of which became effective for manufactured home construction on June 15, 1976.

"Manufactured home space" means a plot of ground within a manufactured home park designed for the accommodation of one manufactured home.

"Occupied space" means the total area of earth horizontally covered by the structure, excluding accessory structures, such as, but not limited to, garages, patios and porches.

"Permanent perimeter enclosure" means a permanent perimeter structural system completely enclosing the space between the floor joists of the home and the ground.

"Permanent foundation" means a structure system approved by the city and following the standards set by the Oregon Department of Commerce, for transposing loads from a structure to the earth. Standards subject to additional conditions set in each manufactured home classification.

"Section" means a unit of a manufactured home at least ten (10) body feet in width and thirty (30) body feet in length.

"Support system" means a pad or a combination of footings piers, caps, plates and shims, which, when properly installed, support the manufactured home.

"Vehicular way" means an unobstructed way of specified width containing a drive or roadway which provides vehicular access within a manufactured home park and connects to a public street.
(Ord. 415 § 7.94.020, 2002)

16.36.030 Manufactured homes outside manufactured home parks.

A. It is unlawful to be occupy, live in, use as an accessory structure, or store any manufactured home within the city, unless it is complies with subsection B of this section.

B. The siting of manufactured homes outside of manufactured home parks shall comply with the following regulations:

1. Dimensions. The manufactured home shall be assembled from not less than two major structural sections, and shall contain a liveable floor area of not less than one thousand (1,000) square feet.

2. Hauling Mechanisms. Hauling mechanisms including wheels, axles, hitch and lights assembly shall be removed in conjunction with installation.

3. Foundation. The manufactured home shall be permanently affixed to an excavated and backfilled foundation and enclosed at the perimeter with cement, concrete block or other materials as approved by the building inspector, such that the manufactured home is not more than twelve (12) inches above grade; if the lot is a sloping lot, then the uphill side of the foundation shall be not more than twelve (12) inches above grade.

4. Roof. The manufactured home shall have a minimum nominal roof pitch of at least three feet in height for each twelve (12) feet in width, as measured from the ridge line. The roof shall be covered with shingles, shakes, or tile similar to that found on immediately surrounding single-family dwellings. Eaves from the roof shall extend at least six inches from the intersection of the roof and the exterior walls. The determination of roof covering comparability shall be made by the building inspector.

5. Exterior Finish. The manufactured home shall have exterior siding which in color, material and appearance is comparable to the predominant exterior siding materials found on surrounding dwellings. The determination of comparability shall be made by the building inspector.

6. Weatherization. The manufactured home shall be certified by the manufacturer to have an exterior thermal envelope meeting the performance standards required of single-family dwelling construction under the Oregon Building Code, as defined in ORS 455.010.

7. Off-Street Parking. A garage or carport constructed of like materials consistent with the predominate construction of immediately surrounding dwellings and sided, roofed and finished to match the exterior of the manufactured home is required.

8. Architectural Design. The manufactured home shall utilize at least two of the following design features to provide visual relief along the street frontage of the home:

a. Dormers;
b. Recessed entries;
c. Cupolas;
d. Bay or bow windows;
e. Gables;
f. Covered porch entries;
g. Pillars or posts;
h. Eaves (minimum six inch projection); or
i. Off-sets on building face or roof (minimum sixteen (16) inches).

C. Historic Districts. Manufactured homes shall be prohibited within, or

adjacent to, or across a public right-of-way from a historic site, landmark or structure. (Ord. 419 § 16, 2002: Ord. 415 § 7.94.030, 2002)

16.36.040 Manufactured home park standards.

A. Design of the proposed enlargement, alteration or creation of a home park manufactured home park shall be submitted to the P~~p~~lanning C~~c~~ommission for review. The review shall be conducted in accordance with Chapter 16.58.

B. The design for the manufactured home park shall conform to all applicable state standards established by the state of Oregon, Department of Commercial Mobile Home park standards.

C. The minimum acreage for a manufactured home park shall be one acre with a minimum frontage of one hundred (100) feet and minimum depth of one hundred fifty (150) feet.

D. The maximum density for a manufactured home park shall be 10.89 units per acre.

E. The front and rear yard setback shall be twenty (20) feet and side yard setback shall be ten (10) feet, except on a corner lot the street side yards shall be twenty (20) feet.

F. The minimum area for a manufactured home space within a park shall be two thousand five hundred (2,500) square feet at a density of no more than eight manufactured homes per acre. No space shall be less than thirty (30) feet in width or less than forty (40) feet in length.

G. For each manufactured home space, one hundred (100) square feet shall be provided for a recreational play area, group or community activities. No recreational area shall be less than two thousand five hundred (2,500) square feet.

H. Primary access to the park shall be from a public street. Where necessary, additional street right-of-way shall be dedicated to the city to maintain adequate traffic circulation. Primary access shall have a width of not less than thirty (30) feet and shall be paved.

I. Vehicular ways shall be paved with an asphaltic material or concrete, a minimum of thirty (30) feet in width with on-street parking and a minimum of twenty (20) feet in width with no on-street parking, and shall be minimally constructed with four inches of one and one-half minus base rock, two inches of three-fourths-inch minus topped with two inches of asphalt concrete. Vehicular ways shall be named and marked with signs which are similar in appearance to those used to identify public streets, and a map of the vehicular ways shall be provided to the fire district, the police department and the public works department.

J. Walkways shall connect each manufactured home to its driveway. All walks must be concrete, well-drained, and not less than thirty-six (36) inches in width.

K. Lighting for the manufactured home park shall average .25 horizontal candlepower of light the full length of all roadways and walks within the park.

L. Driveways shall be asphalt or concrete, not less than four inches deep or two inches of asphalt on four inches of three-fourths-inch minus gravel. Driveways shall begin at a vehicular way and extend into the individual space in a manner to provide parking for at least two vehicles. When the vehicular way is paved to a width of thirty (30) feet, one parking space on the vehicular way may be substituted for one of the required parking spaces. Driveways shall not be directly connected to a city street.

M. Parking spaces shall be a rectangle not less than nine feet wide and eighteen (18) feet long.

N. The boundaries of each manufactured home space shall be clearly marked by a fence, landscaping or by permanent markers and all spaces shall be permanently numbered.

O. The manufactured home shall be parked on a concrete slab on appropriate footings, supports and/or stands. Tie-downs, foundations or other supports shall be in accordance with state and federal laws.

P. Each manufactured home site shall have a patio of concrete, or flagstone or similar substance not less than three hundred (300) square feet adjacent to the manufactured home parking site.

Q. Landscaping and screening shall be provided in each manufactured home park and shall satisfy the following requirements:

1. All areas in a park not occupied by paved roadways or walkways, patios, pads and other park facilities shall be landscaped.

2. Screen planting, masonry walls, or fencing shall be provided to screen objectionable views. Views to be screened include laundry drying yards, garbage and trash collection stations, and other similar uses.

3. Landscaping plans are to be done by a landscape architect or established landscaper.

4. The side and rear perimeter setbacks shall be fenced with an approved sight-obscuring fence or wall not less than five feet nor more than six feet in height and shall be landscaped in accordance with the buffering requirements of Chapter 16.38.

R. Each site shall be serviced by municipal facilities such as water supply, sewers, concrete sidewalks and improved streets.

S. Prior to occupancy of the manufactured home, each site shall have a storage area space in a building having a gross floor area of at least forty-eight (48) square feet for storing the outdoor equipment and accessories necessary to residential living.

1. There shall be no outdoor storage of furniture, tools, equipment, building materials, or supplies belonging to the occupants or management of the park.

2. Except for automobiles and motorized recreational vehicles, no storage shall be permitted except within an enclosed storage area.

3. A recreational vehicle or trailer shall not be occupied overnight in a manufactured home park unless it is parked in a manufactured home space or in an area specifically designated for such use. No more than one recreational vehicle or trailer will be occupied at one time in a manufactured home space. Recreational vehicles, trailers and boats and other oversized vehicles greater than six feet in width may not be parked in the vehicular access way.

T. No structure shall exceed twenty-five (25) feet in height.

(Ord. 415 § 7.94.040, 2002)

16.36.050 Occupying recreational vehicles.

It is unlawful for any recreational vehicle, to be occupied, lived in or otherwise used as a residence within the city, unless such use is specifically approved by the city under Chapter 16.52, except a private, residentially zoned property is permitted to use a recreational vehicle to house non-paying guests no more than a total of ten (10) days in a calendar year.

(Ord. 415 § 7.94.050, 2002)

Chapter 16.38

LANDSCAPING, SCREENING AND FENCING

Sections:

16.38.010 Purpose.
16.38.020 Applicability and approval process.
16.38.030 General provisions.
16.38.040 Buffering and screening requirements.
16.38.050 Screening--Special provisions.
16.38.060 Fences or walls.

16.38.010 Purpose.

The purpose of this chapter is to establish standards for landscaping, buffering and screening in order to enhance the environment of the city through the use of plant materials as a unifying element and by using trees and other landscaping materials to mitigate the effects of the sun, wind, noise and lack of privacy.
(Ord. 415 § 7.96.010, 2002)

16.38.020 Applicability and approval process.

A. Section 16.38.060 shall apply to all properties in the city. All other sections of this chapter shall apply to all development except single-family residences, duplexes and accessory buildings including accessory dwelling units.

B. In residential zones, at least ten (10) percent of the total area shall be landscaped.

C. In the commercial and industrial zones, landscaping shall be as follows:

1. Properties up to twenty thousand (20,000) square feet in size shall have at least fifteen (15) percent of the total lot area landscaped.

2. Properties larger than twenty thousand (20,000) square feet in size shall have at least ten (10) percent of the total lot area landscaped.
(Ord. 415 § 7.96.020, 2002)

16.38.030 General provisions.

A. Unless otherwise provided by the lease agreement, the owner, tenant and their agent, if any, shall be jointly and severably responsible for the maintenance of all landscaping which shall be maintained in good condition so as to present a healthy, neat and orderly appearance and shall be kept free from refuse and debris.

B. All plant growth in landscaped areas of developments shall be controlled by pruning, trimming or otherwise so that:

1. Public utilities can be maintained or repaired;

2. Pedestrian or vehicular access is unrestricted;

3. Visual clearance provisions are met. (See Chapter 16.40.)

C. Certificates of occupancy shall not be issued unless the landscaping requirements have been met or a bond has been posted with the city to insure the completion of landscaping requirements.

D. Existing plant materials may be used to meet landscaping requirements if no cutting or filling takes place within the dripline of the plantings.

E. Plant materials are to be watered at intervals sufficient to ensure survival and growth.

F. The use of native plant materials is encouraged to reduce irrigation and maintenance demands.
(Ord. 415 § 7.96.030, 2002)

16.38.040 Buffering and screening requirements.

A. Buffering and screening a minimum width of twenty (20) feet shall be required between any nonresidential use in a non-

residential zone which abuts a residential use in a residential zone.

B. A buffer shall consist of an area within a required interior setback adjacent to a property line, having a width of ten (10) feet or greater and a length equal to the length of the property line.

C. Occupancy of a buffer area shall be limited to utilities, screening, and landscaping. No buildings, accessways or parking areas shall be allowed in a buffer area.

D. The minimum improvements within a buffer area shall include:

1. One row of trees, or groupings of trees equivalent to one row of trees. At the time of planting, these trees shall not be less than ten (10) feet high for deciduous trees and five feet high for evergreen trees measured from the ground to the top of the tree after planting. Spacing for trees shall be as follows:

a. Small or narrow stature trees, under twenty-five (25) feet tall or less than sixteen (16) feet wide at maturity shall be spaced no further than fifteen (15) feet apart;

b. Medium sized trees between twenty-five (25) feet to forty (40) feet tall and with sixteen (16) feet to thirty-five (35) feet wide branching at maturity shall be spaced no greater than twenty-five (25) feet apart;

c. Large trees, over forty (40) feet tall and with more than thirty-five (35) feet wide branching at maturity, shall be spaced no greater than thirty (30) feet apart.

2. In addition, at least one shrub shall be planted for each one hundred (100) square feet of required buffer area.

3. The remaining area shall be planted in groundcover, or spread with bark mulch.

E. Where screening is required, the following improvements are required in addition to subsection D of this section:

1. A hedge of narrow or broadleaf evergreen shrubs shall be planted which will form a four-foot continuous screen within two years of planting; or

2. An earthen berm planted with evergreen plant materials which will form a continuous screen six feet in height within two years. The unplanted portion of the berm shall be planted in lawn, ground cover or bark mulched; or

3. A six-foot fence or wall providing a continuous sight-obscuring screen. Fences and walls shall be constructed of materials commonly used in the construction of fences and walls such as wood or brick, or otherwise acceptable by the P~~p~~lanning D~~d~~irector. Corrugated metal is not considered to be acceptable fencing material. Chain link fences with slats may qualify as screening when combined with a planting of a continuous evergreen hedge~~;~~

F. Buffering and screening provisions shall be superseded by the vision clearance requirements as set forth in Chapter 16.40.

G. When the use to be screened is downhill from the adjoining property, the prescribed heights of required fences, walls or landscape screening shall be measured from the actual grade of the adjoining property.

(Ord. 455 § 8, 2010; Ord. 415 § 7.96.040, 2002)

16.38.050 Screening--Special provisions.

A. If four or more off-street parking spaces are required under this title, off-street parking adjacent to a public street shall provide a minimum of four square feet of landscaping for each lineal foot of street frontage. The minimum standard for such landscaping shall consist of shrubbery at least two feet in height located adjacent to the street as much as practical and one tree for each fifty (50) lineal feet of street frontage or fraction thereof.

B. Landscaped parking areas may include special design features which effectively screen the parking lot areas from view. These design features may include the use of landscaped berms, decorative walls, and raised planters. Landscape planters may be used to define or screen the appearance of off-street parking areas from the public right-of-way. Materials to be installed shall achieve a balance between low lying and vertical shrubbery and trees.

C. Screening of loading areas and outside storage is required according to specification in Section 16.38.040(E).

D. Except for one-family and two-family dwellings, any refuse container or disposal area and service facilities such as gas meters and air conditioners which would otherwise be visible from a public street, customer or resident parking area, any public facility or any residential area, shall be screened from view by placement of a solid wood fence, masonry wall or evergreen hedge between five and eight feet in height. All refuse materials shall be contained within the screened area.

(Ord. 415 § 7.96.050, 2002)

16.38.060 Fences or walls.

A. Fences or walls up to forty-two (42) inches in height may be constructed in required front yards. Rear and side yard fences, or berm/fence combinations behind the required front yard setback may be up to six feet in height without any additional permits. Any fence or fence/berm combination greater than six feet in height shall require variance approval by the Pplanning Ccommission and may require a building permit. The prescribed heights of required fences, walls or landscaping shall be measured from the lowest of the adjoining levels of finished grade.

C. Fences and walls shall be constructed of any materials commonly used in the construction of fences and walls such as wood or brick, or otherwise acceptable by the Pplanning Ddirector. Except in industrially zoned property, chain link fencing is not permitted in the area from the front building line to the front of the property line. PVC coated chain link fencing may be used only behind the required front yard setback or in rear yards. Corrugated metal is not considered to be acceptable fencing material.

(Ord. 455 § 2, 2010; Ord. 415 § 7.96.060, 2002)

Chapter 16.40

VISUAL CLEARANCE AREAS

Sections:

16.40.010 Purpose.
16.40.020 Applicability of provisions.
16.40.030 Visual clearance--Required.

16.40.010 Purpose.

The purpose of this chapter is to establish standards which will assure proper sight distances at intersections in order to reduce the hazard from vehicular turning movements.
(Ord. 415 § 7.98.010, 2002)

16.40.020 Applicability of provisions.

The provisions of this chapter shall apply to all intersections not regulated by traffic signals including private driveways. (Ord. 415 § 7.98.020, 2002)

16.40.030 Visual clearance--Required.

A. A visual clearance area shall be maintained on the corners of all property adjacent to an unregulated intersection of two streets, a street and a railroad, or a driveway providing access to a public or private street.

B. A clear vision area shall contain no vehicle, recreational vehicle, watercraft, parts designed to be affixed to a vehicle of any type, hedge, planting, fence, wall structure, or temporary or permanent obstruction (except for an occasional utility pole or tree), exceeding forty-two (42) inches in height, measured from the top of the curb, or where no curb exists, from the street center line grade, except that trees exceeding this height may be located in this area, provided all branches below eight (8) feet are removed.

C. Where the crest of a hill or vertical curve conditions contribute to the obstruction of clear vision areas at a street or driveway intersection, hedges, plantings, fences, walls, wall structures and temporary or permanent obstructions shall be further reduced in height or eliminated to comply with the intent of the required clear vision area. (Ord. 415 § 7.98.030, 2002)

Chapter 16.42

OFF-STREET PARKING AND LOADING REQUIREMENTS

Sections:

16.42.010 Compliance.
16.42.020 Off-street loading.
16.42.030 Off-street parking.
16.42.040 General provisions.
16.42.050 Development and maintenance standards.
16.42.060 Provisions for reduction in spatial requirements for off-street parking due to landscaping.
16.42.070 Plan required.
16.42.080 Interpretation--Similar uses.
16.42.090 Recreational vehicles.
16.42.100 Disabled person parking.
16.42.110 Compact vehicle parking.
16.42.120 Bicycle parking.
16.42.130 Off-street parking dimensional standards.
16.42.140 Special exceptions.

16.42.010 Compliance.

A. The provision and maintenance of off-street parking and loading spaces is a continuing obligation of the property owner. Hereafter, every use commenced and every building erected or altered shall have permanently
maintained parking spaces in accordance with the provisions of this title.

B. No building, development, or other permit involving new construction, additional gross floor area or change of use shall be issued until plans and evidence are presented to show how the off-street parking and loading requirements are to be fulfilled and that property is and will remain available for the exclusive use of off-street parking and loading spaces. The subsequent use of the property for which the permit is issued shall be conditional upon the unqualified continuance and availability of the amount of parking and loading space required by this title.

(Ord. 415 § 7.100.010, 2002)

16.42.020 Off-street loading.

A. Every use for which a building is erected or structurally altered to the extent of increasing the floor area to equal a minimum floor area required to provide loading space and which will require the receipt or distribution of materials or merchandise by truck or similar vehicle, shall provide off-street loading space on the basis of minimum requirements as follows:

Use	Gross Sq. Ft.	Minimum Loading Spaces
Commercial	5,000-- 25,000	1
Industrial	25,001--60,000	2
Public utilities	60,001--100,000	3
Restaurants	Over 100,000	3+ 1 space per 60,000 sq. ft.
Hotel, motels	5,000--30,000	1
Institutions	30,001--70,000	2
Office buildings	70,001--130,000	3
Hospitals, schools	Over 130,000	3+1 space per 100,000 sq. ft
Manufacturing	5,000--40,000	1

Use	Gross Sq. Ft.	Minimum Loading Spaces
Wholesale storage	40,001--100,000	2
	100,001--160,000	3
	Over 160,000	3+ 1 per 80,000 sq. ft.

B. A loading berth shall contain space twelve (12) feet wide, thirty-five (35) feet long and have a height clearance of fourteen (14) feet. Where the vehicles generally used for loading and unloading exceed these dimensions, the required length of these berths shall be increased.

C. If loading space has been provided in connection with an existing use such space shall not be eliminated if elimination would result in nonconformance with the above standards.

D. Off-street parking areas used to fulfill the requirements of this title shall not be used for loading and unloading operations except during periods of the day when not required to take care of parking needs.

E. Loading berths shall not be required in areas subject to Chapter 16.28.

(Ord. 415 § 7.100.020, 2002)

16.42.030 Off-street parking.

Off-street parking spaces shall be provided and maintained as set forth in this section for all uses in all zones. The following required spaces shall be available for parking, and not used for storage, sale, repair or servicing of vehicles, except property resident. Nothing in this title shall be interpreted to prevent the occasional use of parking areas for community events, special sales, public gatherings and similar activities not otherwise prohibited.

Use		Standard
A.	**Residential Uses/Day Care/Institutional/Hospital.**	
1.	Single- and two-family	2 spaces per dwelling unit
2.	Multifamily dwelling	1 space per studio or one bedroom dwelling unit, 2 spaces per dwelling unit with two or more bedrooms plus one space per three dwelling units for guests.
3.	Manufactured home park	Two spaces per unit, plus one space for every three units for guests
4.	Bed and breakfast	2 spaces plus 1 space for each guest bedroom
5.	Residential care home or facility	1 space per 3 residential care beds plus 1 space per employee
6.	Correctional facility	1 space per 3 inmate beds
7.	Hospital	1 space per 3 beds and 1 space per employees

B. **Places of Public Assembly.**

The following uses shall be treated as combinations of separate use areas such as office, auditorium, restaurant, etc. The required spaces for each separate use shall be provided.

1.	Auditorium, church or meeting room	1 space per 4 seats or 8 feet of bench length. If no fixed seats or benches, 1 space per 60 square feet
2.	Library, reading room	1 space per 400 square feet plus 1 space per 2 employees
3.	Senior high	1 space per employee plus 5 spaces per every classroom
4.	Elementary school square or junior high	1 space per employee plus 1 space per every 100 feet of floor area in assembly area
5.	Pre-school, nursery or kindergarten	5 spaces plus 1 space per classroom

C. **Commercial Uses.**

1.	Hotel/motel	1 space per room plus 1 space per every 2 employees
2.	Retail, bank, office, medical, dental	1 space per 400 square feet but not less than 3 spaces per establishment
3.	Service or repair of bulky merchandise	1 space per 750 square feet
4.	Bowling	4 spaces per lane, plus 1 space per every 2 employees
5.	Beauty/barber shop	1.5 spaces per chair
6.	Theater, stadium	1 space per 4 seats or 8’ bench length
7.	Ministorage	1 space per 200 square feet of office space, plus 2 spaces for caretaker residence
8.	Eating or drinking establishments with seating	1 space per 120 square feet
9.	Eating establishment with no seating	1 space per 400 square feet
10.	Mortuaries	1 space per 4 seats or 8 feet of bench length in chapel.
11.	Health and fitness club	1 space per 300 square feet

D. **Industrial Uses.**

1.	Manufacturing, research freight, transportation terminal, warehouse, public utility	1 space per employee on two largest shifts
2.	Wholesale uses	1 space per employee, plus one space per 800 square feet of patron serving area

E. **All uses providing drive-in services shall provide on the same site a reservoir for inbound vehicles as follows:**

Use	Reservoir Requirements
Drive-in banks	5 spaces/service terminal
Drive-in restaurants	10 spaces/service window
Drive-in theaters	10% of the theater capacity
Gasoline service stations	3 spaces/pump
Mechanical car washes	3 spaces/washing unit
Parking facilities:	
Free flow entry	1 space/employee entry driveway
Ticket dispense	2 spaces/employee entry driveway
Manual ticket	8 spaces/employee entry driveway
Attendant parking	10% of portion of parking capacity served by the driveway

(Ord. 415 § 7.100.030, 2002)

16.42.040 General provisions.

A. In the event several uses occupy a single structure or parcel of land, the total requirements of the several uses should be computed separately.

B. Off-street parking spaces for dwellings shall be located on the same lot with the dwelling. Other required off-street parking spaces shall be located on the same parcel or on another parcel not farther than three hundred (300) feet from the building or use they are intended to serve, measured in a straight line from the building, except as permitted by Chapter 16.28.

C. Required parking space shall be available for the parking of operable passenger automobiles of residents, customers, patrons and employees and shall not be used for the storage of vehicles or materials or for the parking of trucks used in the conducting of the business or use. The subsequent use of property for which the appropriate permits are issued shall be conditional upon the unqualified continuance and availability of the amount of parking and loading spaces required.

D. Unless otherwise provided, required parking and loading spaces for multi-family dwellings, commercial and industrial use shall not be located in a required front yard, but such space may be located within a required side or rear yard, not abutting a street.

F. Where employees are specified, the employees counted are the persons who work on the premises, including proprietors, executives, professional people, production, sales, and distribution employees during the largest shift at peak season.

(Ord. 415 § 7.100.040, 2002)

16.42.050 Development and maintenance standards.

Every parcel of land hereafter used as a public or private parking area, including commercial parking lots, shall be developed as follows:

A. All parking and maneuvering surfaces shall have a durable, hard and dustless surface such as asphalt, concrete, cobblestone, unit masonry, scored and colored concrete, grasscrete, compacted gravel, or combinations of the above.

B. Any lighting used to illuminate the off-street parking areas shall be so arranged

that it will not project light rays directly upon any adjoining residential property.

C. Except for single-family and duplex dwellings, groups of more than two parking spaces shall be so located and served by a driveway that their use will require no backing movements or other maneuvering within a street or right-of-way other than an alley.

D. Areas used for access and standing and maneuvering of vehicles to the dimensional standards of this title, and to the requirements of the public works standards.

E. Except for parking to serve residential uses, parking and loading areas adjacent to residential zones or adjacent to residential uses shall be designed to minimize disturbance of residents.

F. Access aisles shall be of sufficient width for all vehicular turning and maneuvering.

G. Service drives to off-street parking areas shall be designed and constructed according to public works standards. The number of service drives shall be limited to the minimum that will accommodate and serve the traffic anticipated.

H. Service drives shall be clearly and permanently marked and defined through the use of rails, fences, walls or other barriers or markers. Service drives to drive-in establishments shall be designed to avoid backing movements or other maneuvering within a street other than an alley.

I. Service drives shall have a minimum vision clearance area formed by the intersections of the driveway center line, the street right-of-way line and a straight line joining the lines through points fifteen (15) feet from their intersection.

J. Parking spaces along the outer boundaries of a parking area shall be contained by a curb or bumper rail so placed to prevent a motor vehicle from extending over an adjacent property line or a street right-of-way.

K. The outer boundary of a parking or loading area shall be provided with a bumper rail or curbing at least four inches in height, and at least three feet from the lot line or any required fence.

L. All areas for the parking and maneuvering of vehicles shall be marked in accordance with the approved plan required and such marking shall be continuously maintained.

M. All parking lots shall be kept clean and in good repair at all times. Breaks in surfaces and areas where water puddles shall be repaired promptly and broken or splintered wheel stops shall be replaced so that their function will not be impaired. (Ord. 415 § 7.100.050, 2002)

N. The provision for and maintenance of off-street parking and loading facilities shall be a continuing obligation of the property owner.

16.42.060 Provisions for reduction in spatial requirements for off-street parking due to landscaping.

Where landscaping is to be provided in parking areas, to reduce the starkness generally associated with such parking areas, the P~~p~~lanning C~~c~~ommission may consider and approve the following reduction: if general landscaping (including ground cover, raised beds, or low shrubbery, all of evergreen nature) are utilized around parking area borders, or where landscaping is required as screening around borders, or as traffic control structures within parking

areas, or as general landscaping within parking areas, then the parking area gross spatial requirement may be reduced proportionately, up to a total of five percent.
(Ord. 415 § 7.100.060, 2002)

16.42.070 Plan required.

A plot plan showing the dimensions, legal description, access and circulation layout for vehicles and pedestrians, space markings, the grades, drainage, setbacks, landscaping and abutting land uses in respect to the off-street parking area and such other information as shall be required, shall be submitted to the Pplanning Ddirector with each application for approval of a building or other required permit, or for a change of use. (Ord. 415 § 7.100.070, 2002)

16.42.080 Interpretation--Similar uses.

Off-street parking or loading requirements for structures or uses not specifically listed shall be determined by the Pplanning Ccommission. The Pplanning Ccommission shall base such requirements on the standards for parking or loading of similar uses.
(Ord. 415 § 7.100.080, 2002)

16.42.090 Recreational vehicles.

The parking restrictions shall not be interpreted to prevent the parking on-site of recreational vehicles at all single-family residences provided the applicable parking requirements are satisfied.
(Ord. 415 § 7.100.090, 2002)

16.42.100 Disabled person parking.

A. A sign shall be posted for each disabled person parking space required by subsection B of this section. The sign shall be clearly visible to a person parking in the space, shall be marked with the International Symbol of Access, shall indicate that the spaces are reserved for persons with disabled person parking permits and shall be designed as set forth in standards adopted by the Oregon Transportation Commission.

B. Parking spaces constructed under this section shall be in accordance with the Uniform Building Code.
(Ord. 415 § 7.100.100, 2002)

16.42.110 Compact vehicle parking.

All parking spaces designated for compact vehicles shall be labeled by painting "compact only" on the parking space. Up to twenty-five (25) percent of the required parking spaces may be designated compact spaces.
(Ord. 415 § 7.100.110, 2002)

16.42.120 Bicycle parking.

At least one secured bicycle rack space shall be provided for each fifteen (15) parking spaces or portion thereof in any new commercial, industrial, or multifamily development. Bicycle parking areas shall not be located within parking aisles, landscape areas, or pedestrian ways.
(Ord. 415 § 7.100.120, 2002)

16.42.130 Off-street parking dimensional standards.

All off-street parking lots shall be designed subject to city standards for stalls and aisles as set forth in the following table.

A.	Parking Angle In Degrees
B.	Stall Width
C.	Stall Depth
D.	Aisle Width One Way
E.	Curb Length Per Car
F.	Bay Width (Includes stall length plus back up length)

A	**B**	**C**	**D**	**E**	**F**
	9'0"	9.0	12.0	22.0	21.0
0	9'6"	9.5	12.0	22.0	21.5
	10'0"	10.0	12.0	22.0	22.0
	9'0"	19.8	13.0	12.7	22.8
45	9'6"	20.1	13.0	13.4	33.1
	10'0"	20.5	13.0	14.1	33.5
	9'0"	20.3	18.0	10.4	38.0
60	9'6"	21.2	18.0	11.0	39.2
	10'0"	21.5	18.0	11.9	39.5
	9'0"	21.0	19.0	9.6	40.0
70	9'6"	21.2	18.5	10.1	39.5
	10'0"	21.2	18.0	10.6	39.2
	9'0"	20.0	24.0	9.0	44.0
90	9'6"	20.0	24.0	9.5	44.0
	10'0"	20.0	24.0	10.0	44.0
Parallel	8'0"		12.0	22.0	18.0

A. For one row of stalls use "C" + "D" as minimum bay width.

B. Public alley width may be included as part of dimension "D," but all parking stalls must be on private property, off the public right-of-way.

C. For estimating available parking area, use three hundred (300) to three hundred twenty-five (325) square feet per vehicle for stall, aisle and access areas.

D. For large parking lots exceeding twenty (20) stalls, alternate rows may be designed for compact cars provided that the compact stalls do not exceed thirty (30) percent of the total required stalls. When designated compact spaces are provided the stall width may be reduced to eight feet and the stall length reduced to seventeen (17) feet in length with appropriate aisle width. (Ord. 415 § 7.100.130, 2002)

16.42.140 Special exceptions.

If conformance with this chapter would require a historic structure to be modified, or would involve destroying existing landscaping, the P~~p~~lanning C~~c~~ommission may approve modifications to the requirements of this chapter and no variance shall be required for such modification. (Ord. 415 § 7.100.140, 2002)

Chapter 16.44

SIGNS

Sections:

16.44.010 General authority.
16.44.020 Purpose.
16.44.030 Sign permits required.
16.44.040 Application.
16.44.050 Definitions.
16.44.060 Exempt signs.
16.44.070 General sign provisions.
16.44.080 Residential districts.
16.44.090 Historic commercial (HC) district.
16.44.100 General commercial (C) zone.
16.44.110 Nonconforming signs.
16.44.120 Termination of signs by abandonment.

16.44.010 General authority.

In all areas of the city, approval of a sign permit application must be obtained from the building official, Pplanning Ddirector, and Hhistoric Rreview Bboard, if applicable, before any sign, except those specifically exempted, is erected, placed, painted, constructed, carved or otherwise given public exposure. The sign provisions of this chapter may be considered as a part of a development application or individually. Applications shall be filed with the Ccity Rrecorder on an appropriate form in any manner prescribed by the city, accompanied with an application fee in the amount established by general resolution of the Cccity Cccouncil.

(Ord. 415 § 7.102.010, 2002)

16.44.020 Purpose.

Sign guidelines and criteria can enhance the economic vitality and contribute to the visual quality of the city. Well-designed signs attract the eye, complement each other and draw attention to the buildings containing the businesses for which they are intended to advertise. In the review of sign applications within the city, the following criteria and standards will be considered by the Hhistorical Rreview Bboard and Pplanning Cccommission:

A. Signs are necessary to communicate information about places, goods, services and amenities. As such, they have a useful function; they should not confuse; they should inform with clarity.

B. Signs are a part of the town's streetscape. Signage, in a collective sense, has a civic obligation to be in character with the rest of the streetscape.

C. Buildings are signs in that they represent a kind of imagery through their architecture.

D. Signage is visual. Good signage is an art form that should be addressed with sensitivity. In addition to communicating information, signage is an architectural element.

E. Signs on buildings should not dominate or obscure the architecture of the building. A sign on a building should be compatible or integrated with its architecture.

(Ord. 415 § 7.102.020, 2002)

16.44.030 Sign permits required.

A. Existing Signs. All existing signs on each business and residential premises shall be required to conform to the standards of this chapter on or before July 1, 2003. Upon adoption of the ordinance codified in this title, the person(s) in control of the business or property or in control of each business contained thereon, shall be required to submit a completed application form with a photograph of all existing signs according to Section 16.44.040(C), and pay no sign permit fee.

B. Proposed Signs. No person shall place on, or apply to, the surface of any building, any painted sign, or erect, construct, place or install any other sign, unless a sign permit has been issued by the city for such sign. Application for a sign permit shall be made by the permittee in accordance with Section 16.44.040. The person(s) in control of the building or property or in control of each business contained thereon, shall make application for a sign permit in writing upon forms provided by the city. Such application shall contain the proposed location of each sign on the premises, the street and number of the premises, the name and address of the sign owner, the type of construction of each sign, the design and dimensions of each sign, type of sign supports, location of each sign on the premises, and other such information as may be required by the city.

C. No person having a permit to erect a sign shall construct or erect same in any manner, except in the manner set forth in the approved application permit.

D. Sign Permit Fees. The application for a sign permit shall be accompanied by a filing fee in an amount established by general resolution of the C~~c~~ity ~~—~~c~~c~~ouncil. (Ord. 419 § 7, 2002; Ord. 415 § 7.102.030, 2002)

16.44.040 Application.

The applicant shall submit three copies of:

A. A drawing of the sign indicating its colors, lettering, symbols, logos, materials, size, and area;

B. An elevation and plot plan indicating where the proposed sign will be located on the structure or lot, method of illumination, if any, and similar information.

C. Signs existing September 26, 1995 shall be photographed with enough visual detail to determine their approximate size and location for inventory purposes.
(Ord. 415 § 7.102.040, 2002)

16.44.050 Definitions.

"Advertising structure" means any notice or advertisement, pictorial or otherwise, and any structure used as, or for the support of, any notice or advertisement for the purpose of making anything known about goods, services or activities not on the same lot as the advertising structure.

"Alterations" means any change in size, shape, method of illumination, position, location, construction or supporting structure of a sign.

"Balcony" means a platform projecting form the exterior wall, enclosed by a railing, supported by brackets or columns or cantilevered out.

"Banner" means a temporary paper, cloth, or plastic sign advertising a single event of civic or business nature.

"Billboard" means the same as "advertising structure."

"Building facade" means the vertical exterior wall of a building including all vertical architectural features.

"Building register sign" means a sign which identifies four or more businesses contained within a single building structure or complex.

"Bulletin board" means a sign of a permanent nature, but which accommodates changeable copy, indicating the names of persons associated with, events, conducted upon or products or services offered upon, the premises upon which the sign is located.

"Business" means commercial or industrial enterprise.

"Business frontage" means the lineal front footage of the building or a portion thereof, devoted to a specific business or enterprise, and having an entrance/exit opening to the general public.

"Cartoon" means a caricature of an animate or inanimate object intended as humorous.

"Construction sign" means a sign stating the names, addresses or telephone numbers of those individuals or businesses directly associated with a construction project on the premises.

"Curvilinear" means represented by curved lines.

"Direct illumination" means a source of illumination directed towards such signs so that the beam of light falls on the exterior surface of the sign.

"Flag" means a light flexible cloth, usually rectangular and bearing a symbol(s) representing a nationality, statehood, or other entity.

"Flashing sign" means a sign incorporating intermittent electrical impulses to a source of illumination, or revolving in a manner which creates the illusion of flashing, or which changes color or intensity of illumination.

"Fluorescent colors" means extra bright and glowing type colors; includes "dayglow" orange, fluorescent green, etc.

"Fluorescent lighting" means light provided by tubes.

"Free-standing" means a sign which is entirely supported by a sign structure in the ground.

"Frontage" means the single wall surface of a building facing a given direction.

"Illustration" means a line drawing or silhouette of a realistic object.

"Marquee" means a permanent roofed, nonenclosed structure projecting over an entrance to a building which may be attached to the ground surface or not.

"Neighborhood identification" means a sign located at the entry point to a single-family subdivision comprising not less than two acres, or a sign identifying a multiple-family development.

"Neon light" means a form of illumination using inert gases in glass tubes. Includes "black light" and other neon lights.

"Parcel" or "premises" means a lot or tract of land under separate ownership, as depicted upon the count assessment rolls, and having frontage abutting on a public street.

"Primary revenue source" means no less than seventy-five (75) percent of gross total principal income derived from a business.

"Public right-of-way" means the area commonly shared by pedestrians and vehicles for right of passage. An easement for public travel or access including street, alley, walkway, driveway, trail or any other public way; also, the land within the boundaries of such easement.

"Quality material" means materials that are appropriate to make temporary window signs, including posterboard, heavy bond paper or wood. All temporary signs will be lettered using the approved lettering styles. Brown paper or brown bags, ragged edges or light-weight paper are not allowed.

"Real estate sign" means a sign indicating that the premises on which the sign is located, or any portion thereof, is for sale, lease or rent.

"Sidewalk" means hard surface strip within a street right-of-way to be used for pedestrian traffic.

"Sign" means any notice or advertisement, pictorial or otherwise, used as an outdoor display for the purpose of advertising a property or the establishment or enterprise, including goods and services, upon which the signs are exhibited. This definition shall not include official notices issued by a court or public body or officer, or directional, warning or information signs or structures required by or authorized by the law or by federal, state, county or city authority.

Sign, Area of. In determining whether a sign is within the area limitations of this title, the area of the total exterior surface shall be measured and computed in square feet; provided, that where the sign has two or more faces, the area of the total exterior surface shall be measured and divided by the number of faces; and provided further, that if the interior angle between the two planes of two faces exceeds one hundred thirty-five (135) degrees, they shall be deemed a single face for the purposes hereof. Measurement shall be made at the extreme horizontal and vertical limit of a sign.

"Street frontage" means the lineal dimension in feet of the property upon which a structure is built, each frontage having one street frontage.

"Wind sign or device" means any sign or device in the nature of a series of one, two or more banners fastened in such a manner as to move upon being subject to pressure by wind or breeze.

"Window" means all the glass included with one casement. (Ord. 415 § 7.102.050, 2002)

16.44.060 Exempt signs.

The following signs and devices shall not be subject to the provisions of this chapter and shall not require a sign permit application:

A. Memorial tablets, cornerstones or similar plaques not exceeding six square feet;

B. Flags of national, state, or local government, and flags of U.S. historical significance (no more than two flags per store front, each flag not to exceed a size of three feet by five feet);

C. Temporary political signs not exceeding four square feet, provided the signs located on private property, and are erected not more than thirty (30) days prior to, and removed within seven days following, the election for which they are intended;

D. Temporary, nonilluminated real estate or construction signs (no more than one per parcel) not exceeding four square feet, provided the signs are removed within fifteen (15) days after sale, lease or rental of the property, or the completion of the project;

E. Temporary signs for new businesses, after the city has been notified, for a period not exceeding thirty (30) days;

F. Temporary paper signs placed upon a window opening of a nonresidential building, when such signs do not obscure more than twenty (20) percent of the window area, and are maintained for a period not exceeding fifteen (15) days. These temporary signs need to be of quality material and in keeping with the Aurora’s historic character;

G. Temporary paper signs that serve as notice of a public meeting when removed promptly after such meeting is held;

H. Small nonilluminated informational signs such as "open/closed" signs (including one three-foot by five-foot flag or banner per store front), credit card signs, rating or professional association signs, and signs of a similar nature. Only one of each type of sign, not to exceed three square feet in area per sign with no more than four in number of any individual business or any parcel of property and using HRB approved colors and lettering styles;

I. Signs placed by state or federal governments for the purpose of construction, maintenance or identification of roads or other public agencies for the direction of traffic, and designed to fulfill the requirements of state and federal funding agencies;

J. Nameplates indicating the name, address or profession of the occupant not exceeding three square feet;

K. Signs within a building, provided the same do not primarily identify the business to persons outside the building;

L. Signs for special events or sales, which shall be constructed of quality material and be in character with Aurora historical signage. These temporary signs will not be put up more than one week prior to the event or sale and will be removed immediately after the event or sale;

M. Garage sale signs shall include the name and address of the person giving the sale, dates of the sale and be limited to three weekends per year per address. Signs are to be removed immediately at the close of the sale. Signs shall be maximum size of two square feet, signs shall be no more than four feet in height, and shall be self-supported and not affixed to public sings or utility poles. Signs shall not be placed in the city's park. Signs may be placed in the city right-of-way if placed no closer than four feet from the street. Sign may also be placed on private property with the owner's permission.

N. A sign identifying the name of the occupant or owner, provided the sign is not larger than one square foot, is not illuminated and is either attached to the structure or located within the front yard setback.

(Ord. 415 § 7.102.060, 2002)

16.44.070 General sign provisions.

The following general sign provisions apply to all signs, except those exempt signs specifically listed in Section 16.44.060, within the city:

A. Wood is the recommended material for both the sign and the stanchion (in the case of free-standing signs). Signs which use plastic as part of the exterior visual effects are prohibited.

B. Rectangular, straight-edge and oval signs are the preferred shape for signs. Signs with highly stylized, curvilinear edges are not permitted. Refer to approved sample sign styles available at City Hall.

C. Sign graphics and lettering shall be carved, applied, painted or stained. Three-dimensional signs are not permitted. All lettering shall be uniformly aligned, evenly spaced, precise, cleanly executed and legible.

D. Sign graphics shall be simple and bold. Sign graphics can contain line drawings or silhouette images of live or inanimate objects. Cartoon images, either line drawn or silhouette, of live or inanimate objects are prohibited.

E. The number of colors used on signs shall be minimized for maximum effect. Four colors including the background color is maximum. Fluorescent colors are not allowed.

F. Signs placed flat against the facade of the building that identify the historic name of a building are encouraged, provided they are of uniform color and design throughout the city and are no more than six square feet in area.

G. Paper signs are not allowed on the exterior of any building, except as provided in Section 16.44.060.

H. No sign shall be attached to a utility pole nor placed within any public right-of-way, except garage sale signs, subject to Section 16.44.060(M), or unless approved by the C~~c~~ity C~~c~~ouncil.

I. When lighting is used for signs, only subdued external and indirect incandescent lighting is allowed. Internal illumination and fluorescent and/or internal neon lighting is not allowed, except as provided in Section 16.44.110 of the general commercial (C) district.

J. No sign shall contain any flashing lights, blinking or moving letters, characters or other elements, nor shall it be rotating or otherwise movable.

K. Billboards or off-premises advertising signs, temporary signs, wind signs or devices are prohibited, except as allowed in Section 16.44.060.

L. Advertising murals and bench signs are prohibited.

M. Free-standing signs shall be the only type of signage permitted for detached business buildings, located in the historic commercial core, that were historically occupied as single-family residences.

N. Signs and graphics for which the city is responsible (i.e., parking lots, public facilities, street signs, etc.) shall have a single lettering style and use black for the lettering and white as a background. Signs for city parks shall not exceed twelve (12) square feet.

O. Temporary banners, pennants and flags advertising civic events shall be permitted, subject to removal within forty-eight (48) hours after the event concludes.

P. Signs or devices (such as drink dispensers) that display the symbol, slogan or trademark of national product brands of soft drinks, or other products, or services shall be prohibited except as provided in Section 16.44.110.

Q. Any unofficial sign which purports to be, is in imitation of or resembles an official traffic light or a portion thereof, or which hides from view any official traffic sign or signal, is prohibited.

R. No sign or portion thereof shall be so placed as to obstruct any fire escape, standpipe or human exit from a window located above the first floor of a building; obstruct any door or exit from a building; or obstruct any required light or ventilation.

S. In the case of commercial signs, no sign shall be allowed except sign which identifies or advertises the primary business conducted on the premises.

T. Sandwich boards shall not obstruct pedestrian walkways, or in any way impede the normal flow of vehicular traffic, and comply with ADA requirements. Sandwich board signs must be removed at the end of each business day with a maximum allowable limit of one sign per store front. Sandwich board signs are considered to be informational signs, subject to HRB approval for colors and lettering styles.

U. All signs in the historic commercial overlay and historic residential overlay shall conform to the requirements of Chapter 17.20 of the Aurora Municipal Code and the Design Review Guidelines for Historic District Properties.

(Ord. 419 §§ 9, 10, 2002; Ord. 415 § 7.102.070, 2002)

16.44.080 Residential districts.

Signs in residential districts outside the historic residential overlay shall be permitted as follows:

A. Neighborhood Identification. One sign shall be permitted at each entry point to developments, with more than ten (10) lots and/or units, not exceeding an area of eight square feet per sign, nor five feet in height above grade.

B. Multiple-Family Residential and Conditional Uses. Where otherwise permitted, one sign of not more than four square feet, either attached to the building or freestanding, shall be permitted for multiple-family dwellings, containing four or more dwelling units and conditional uses. If freestanding, the sign shall be mounted in a planter or landscaped area and shall not exceed five feet in height, nor shall it be located within ten (10) feet of any property line.

C. One sign pertaining to the lease or sale of a building or property, provided the sign is not larger than twenty-four (24) inches by thirty-six (36) inches, and is not illuminated.

D. All signs in the historic residential overlay shall require approval by the Hhistoric Rreview Bboard pursuant to Chapter 17.20. (Ord. 415 § 7.102.080, 2002)

16.44.090 Historic commercial (HC) district.

All signs in the historic commercial overlay shall require approval by the Hhistoric Rreview Bboard pursuant to Chapter 17.20. (Ord. 415 § 7.102.090, 2002)

16.44.100 General commercial (C) zone.

Signs in the general commercial (C) district for properties not included in the historic commercial overlay are subject to Section 16.44.070 and will be permitted as follows:

A. Free-standing Signs. Signs may be placed free-standing, provided that only one such sign shall be permitted for each business location on the premises using the formula of the lineal street frontage x (times) .15, which equals square footage for total sign area with thirty-six (36) square feet being the maximum allowable size; then one hundred (100) square feet maximum represents the aggregate total of all free-standing signs on the premises.

B. In the case of shopping areas which are planned with four or more businesses having common parking areas, only one free-standing sign identifying the shopping area shall be allowed. Such sign shall not exceed ten (10) feet in height and shall be limited to a total area of thirty-six (36) square feet.

C. Other signs shall be one of the following types:

1. Placed flat against a building which supports it, and extending not more than eighteen (18) inches from the building;

2. Attached to the front or bottom surface of a marquee, and extending no more than six inches past the outer edges of the marquee.

D. The total aggregate area of all signs shall not exceed the following:

1. On a side of a building facing a street, the area of signs shall not exceed one square foot for each lineal foot of building frontage, plus one-half square foot for each foot the building is set back from the street. The total area of signs shall not exceed two square feet for each lineal foot of building frontage.

2. On those sides of the building not facing a street, signs shall be limited to twenty-five (25) square feet, unless set back more than twenty-five (25) feet from an abutting lot may be increased in area by an amount not to exceed one-half square foot for each foot of setback exceed two square feet for each lineal foot of building frontage.

E. Light from a sign shall be directed away from a residential area and any abutting street. Interior illuminated signs are not allowed.

F. Neon Signs. Neon-illuminated informational signs will be allowed in general commercial district only. The only signs allowed will be "Vacancy/No Vacancy," and "Open/ Closed." One sign per business and one hundred forty-four (144) square inches maximum size. Samples of approved neon colors are available at City Hall.

G. Window and Door Signs. Window and door signs are those which are painted, displayed or placed on an interior translucent or transparent surface. Window graphics are usually most effective when they are simple and clearly displayed using light colors or dark colors with gold or equal color highlights. Window and door signs will be kept to a minimum.

1. Number. Each building frontage will have no more than a total of two window/door signs.

2. Area. Each window or door sign will not exceed twenty (20) percent of the total window/door area for each building.

3. Placement. In all cases, window graphics will be limited to the first and second story windows.

G. Registered trademarks on signs are allowed if they represent seventy-five (75) percent of the gross primary revenue source of a business.

H. Exposed vending machines, such as those used to dispense soft drinks, and plastic and metal phone booths are prohibited.

(Ord. 415 § 7.102.100, 2002)

16.44.110 Nonconforming signs.

All signs existing on September 26, 1995, the date of the ordinance codified in this title, and not conforming with the provisions of this chapter are deemed nonconforming signs.

A. No nonconforming sign shall be changed, expanded or altered in any manner which would increase the degree of its nonconformity, or be structurally altered to prolong its useful life, or be moved in whole or in part to any other location where it would remain nonconforming.

B. Termination and Removal of Nonconforming Signs.

1. Immediate Termination. Nonconforming signs which advertise a business no longer conducted or a product no longer sold on the premises where such sign is located shall be terminated and removed within fifteen (15) days after the effective date of the ordinance codified in this title.

2. Termination by Change of Business. Any nonconforming sign advertising or relating to a business on the premises on which it is located shall be terminated upon any change in the ownership or control of such business.

3. Termination by Amortization. Any nonconforming sign not terminated pursuant to any other provision of this title shall be terminated and removed on or before July 1, 2003.

C. Historical Signs. Notwithstanding subsections A and B of this section, the owner of a nonconforming sign in existence September 26, 1995 may apply to the HRB within one year of that date for a determination that the sign qualifies as a historical sign by virtue of its age and vintage style. The criteria found in the historical colony, city and sign owners' records shall be used for determining the historical significance of any particular sign. The burden of proof shall be on the applicant.

(Ord. 419 § 8, 2002: Ord. 415 § 7.102.110, 2002)

16.44.120 Termination of signs by abandonment.

A. Any sign advertising or relating to a business, except a regular seasonal business, on the premises on which it is located, which business is discontinued for a period of thirty (30) consecutive days, regardless of any intent to resume or not to abandon such use, shall be presumed to be abandoned and all such signage, whether conforming or nonconforming to the provisions of this title shall be removed within thirty (30) days thereafter. Any period of such noncontinuance caused by government actions, strikes, materials shortages or acts of God, and without any contributing fault by the business or user, shall not be considered in calculating the length of discontinuance for purposes of this subsection.

B. An extension of time for removal of signage of an abandoned business, not to exceed an additional thirty (30) days, may be granted by the Ceity Ceouncil upon an

appeal filed by the legal owner of the premises or person in control of the business.

(Ord. 415 § 7.102.120, 2002)

Chapter 16.46

HOME OCCUPATIONS

Sections:

16.46.010 Purpose.
16.46.020 Applicability and exemptions.
16.46.030 Nonconforming uses.
16.46.040 General approval criteria and standards.
16.46.050 Permit procedures.
16.46.060 Type II applications.
16.46.070 Revocation and expiration of home occupation permits.
16.46.080 Action regarding complaints.
16.46.090 Business license required.

16.46.010 Purpose.

It is the purpose of this chapter to permit residents an opportunity to use their homes to engage in small-scale business ventures which could not be sustained if it were necessary to lease commercial quarters and to establish approval criteria and standards to ensure that home occupations are conducted as lawful uses which are subordinate to the residential use of the property and are conducted in a manner that is not detrimental or disruptive in terms of appearance or operation to neighboring properties and residents. (Ord. 415 § 7.104.010, 2002)

16.46.020 Applicability and exemptions.

A. No person shall carry on a home occupation, or permit such use to occur on property which that person owns or is in lawful control of, contrary to the provisions of this chapter.

B. Exemptions from the provisions of this chapter are:

1. Garage sales (limited to twelve (12) days per year);

2. For-profit production of produce or other food products grown on the premises. This may include temporary or seasonal sale of produce or other food products grown on the premises;

3. Hobbies which do not result in payment to those engaged in such activity;

4. Proven nonconforming home occupations as per Section 16.46.030.

C. Type I Home Occupations. A Type I home occupation shall exhibit no evidence that a business is being conducted from the premises. A Type I home occupation shall not permit:

1. Exterior signs which identify the property as a business location;

2. Clients or customers to visit the premises for any reason;

3. Exterior storage of materials.

D. Type II Home Occupations. Property on which a Type II home occupation is located may show evidence that a business is being conducted from the premises. The following is allowed for Type II home occupations:

1. For properties located outside the historic commercial and historic residential overlays, one nonilluminated sign, not exceeding one hundred forty-four (144) square inches, which shall be attached to the residence or accessory structure or placed in a window. All signs on properties located in the historic commercial or historic residential overlays require approval by the H~~h~~istoric R~~r~~eview B~~b~~oard pursuant to Chapter 17.20.

2. No more than five daily customers or clients. Customers and clients may not visit the business between the hours of ten p.m. and eight a.m. and shall not generate excessive traffic or monopolize on-street parking;

3. Storage of materials, goods and equipment which is screened entirely from view by a solid fence. Storage shall not exceed five percent of the total lot area and shall not occur within the front yard or the required side yard setback. Any storage of materials, goods, and equipment shall be reviewed and approved by the city and the fire department.

(Ord. 415 § 7.104.020, 2002)

16.46.030 Nonconforming uses.

A. Ongoing home occupations may be granted nonconforming status, provided that they were:

1. Permitted under county authority prior to annexation to the city and have been in continuous operation since initial approval;

2. Permitted under city authority prior to the date of adoption of the ordinance codified in this title and have since been in continuous operation.

B. A nonconforming situation is further governed by Chapter 16.62. Such use may continue until the use is expanded or altered so as to increase the level of noncompliance with the present code. The burden of proving a home occupation's nonconforming status rests with the property owner or tenant.

C. Home occupations without city or county approval which cannot prove nonconforming status shall be considered in violation of this chapter and shall cease until the appropriate approvals have been granted.

(Ord. 415 § 7.104.030, 2002)

16.46.040 General approval criteria and standards.

All home occupations shall observe the following criteria:

A. There shall be no outside volunteers or employees to be engaged in the business activity other than the persons principally residing on the premises.

B. There shall be no more than three deliveries per week to the residence by suppliers.

C. There shall be no offensive noise, vibration, smoke, dust, odors, heat or glare noticeable at or beyond the property line resulting from the operation. Home occupations shall observe the provisions of Chapter 16.32.

D. The home occupation shall be operated entirely within the dwelling unit or a conforming accessory structure. The total area which may be used in the accessory building for material product storage and the business activity shall not exceed seven hundred (700) square feet. Otherwise, the home occupation and associated storage of materials and products shall not occupy more than twenty-five (25) percent of the combined residence and accessory structure gross floor area. The indoor storage of materials or products shall not exceed the limitations imposed by the provisions of the building, fire, health, and housing codes.

E. A home occupation shall not make necessary a change in the Uniform Building Code use classification of a dwelling unit. Any accessory building that is used must meet Uniform Building Code requirements.

F. More than one business activity constituting two or more home occupations may be allowed on one property only if the combined floor space of the business activities does not exceed twenty-five (25) percent of the combined gross floor area of the residence and accessory structure. Each home occupation shall apply for a separate home occupation permit, if required as per this chapter, and each shall also have separate business license certificates.

G. There shall be no storage and/or distribution of toxic or flammable materials, and spray painting or spray finishing

operations that involve toxic or flammable materials which in the judgment of the fire marshal pose a dangerous risk to the residence, its occupants, and/or surrounding properties. Those individuals which are engaged in home occupations shall make available to the fire marshal for review the material safety data sheets which pertain to all potentially toxic and/or flammable materials associated with the use.

H. The following uses shall not be allowed as home occupations:

1. Auto-body repair and painting;

2. Ongoing mechanical repair conducted outside of an entirely enclosed structure;

3. Junk and salvage yards;

4. Storage and/or sale of fireworks.

I. There shall be no exterior storage of vehicles of any kind used for the business except that one commercially licensed vehicle may be parked outside of a structure. (Ord. 415 § 7.104.040, 2002)

16.46.050 Permit procedures.

A. Type I. A person wishing to engage in a Type I home occupation must be a principal occupant of the property, agree to abide by the provisions of this chapter, and acquire an annual business license. The Pplanning Ddirector shall determine whether an application for a business license also requires an application for a Type II home occupation. Type I home occupations do not require a separate application from the business license.

B. Type II. A person wishing to engage in a Type II home occupation must be a principal occupant of the property, agree to abide by the provisions of this chapter, acquire an annual business license certificate and receive Pplanning Ccommission approval for a Type II home occupation.

1. The Pplanning Ccommission shall approve, approve with conditions, or deny any application for a Type II home occupation. The decision to approve, approve with conditions, or deny an application for a Type II home occupation permit shall be made by the Pplanning Ccommission upon findings of whether or not the proposed use:

a. Is in conformance with the standards contained in this chapter;

b. Will be subordinate to the residential use of the property;

c. Is undertaken in a manner that is not detrimental nor disruptive in terms of appearance or operation to neighboring properties and residents;

2. All Type II home occupations are subject to Chapter 16.60.

3. Applications for Type II Home Occupations shall be processed in accordance with Chapter 16.76.
(Ord. 415 § 7.104.050, 2002)

16.46.060 Type II applications.

An application for a Type II home occupation shall be made on forms provided by the city and shall be accompanied by:

A. The applicant's statement or narrative which explains how the proposal conforms to the approval criteria in Sections 16.46.040;

B. A site plan of the property drawn to scale with a north arrow indicated. The site plan shall show all major features of the property including buildings, major vegetation, access for public streets, sidewalks, etc.;

C. A floor plan of all structures on the property which are to be used for the home occupation(s);

D. A copy of the title transfer instrument;

E. The property owner of record signature(s) or written authorization. (Ord. 415 § 7.104.060, 2002)

16.46.070 Revocation and expiration of home occupation permits.

A. The Pplanning Ccommission may revoke a home occupation approval if the conditions of approval have not been or are not being complied with and the home occupation is otherwise being conducted in a manner contrary to this chapter.

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

C. A home occupation permit shall become invalid if the applicant moves his or her residence. (Ord. 415 § 7.104.070, 2002)

16.46.080 Action regarding complaints.

A. Complaints may be originated by the city or the public. Complaints from the public shall clearly state the objection to the home occupation, such as:

1. Generation of excessive traffic;

2. Exclusive use of on-street parking spaces;

3. Other offensive activities not compatible with a residential neighborhood.

B. Complaints shall be reviewed by the Pplanning Ccommission. The Pplanning Ccommission shall either approve the use as it exists, revoke the home occupation permit, or compel measures to be taken to ensure compatibility with the neighborhood and conformance with this chapter. The operator of the home occupation may appeal the Pplanning C-ccommission's decision to the Cccity Cccouncil.

C. Cessation of Home Occupation Pending Review. If it is determined by the Pplanning Ccommission in exercise of reasonable discretion, that the home occupation in question will affect public health and safety, the use may be ordered to cease pending Pplanning Ccommission review and/or exhaustion of all appeals.

D. Notice of Appeal Hearing. Written notice of a hearing on an appeal of the Pplanning Ccommission's decision to either revoke or not revoke a home occupation permit, shall include its date, time and place and shall be give to the property owner(s) and the person(s) undertaking the use if other than the owner(s). Written notice shall also be given to property owners within two hundred (200) feet of the use, the affected neighborhood planning organization, if any, and the complainant(s).

E. City Council Appeal. The Cccity Cccouncil shall approve the use as it exists, revoke the permit, or compel suitable restrictions and conditions to ensure compatibility with the neighborhood.
(Ord. 415 § 7.104.080, 2002)

16.46.090 Business license required.

The city requires a business license to operate a home occupation. By definition, home occupation does not include activity conducted by a resident of the dwelling acting as an employee of a business located outside of the residence. A business license shall not be issued for a home occupation until the person wishing to engage in a Type I home occupation agrees to comply with the provisions of this chapter; or the application for a Type II home occupation has been approved by the Pplanning Ccommission and the application certifies that the home occupation will be operated in strict compliance with the provisions of this chapter and any conditions of approval. (Ord. 415 § 7.104.090, 2002)

Chapter 16.48

PROTECTION OF NATURAL FEATURES

Sections:

16.48.010 Purpose.
16.48.020 General terrain preparation.
16.48.030 Hillsides.
16.48.040 Rivers and stream corridors.
16.48.050 Wetlands.
16.48.060 Standards for earth movement hazard areas.
16.48.070 Standards for soil hazard areas.

16.48.010 Purpose.

The purpose of this chapter is:

A. To protect the natural environmental and scenic features of the city;

B. To encourage site planning and development practices which protect and enhance natural features such as streams, swales, ridges, rock outcroppings, views, and significant native vegetation;

C. To provide ample open space and to create a manmade environment capable and harmonious with the natural environment;

D. To protect lives and property from natural or man-induced geologic or hydrologic hazards and disasters;

E. To protect property from damage due to soil hazards;

F. To protect lives and property from forest and brush fires;

G. To avoid financial loss resulting from development in hazard areas. (Ord. 415 § 7.106.010, 2002)

16.48.020 General terrain preparation.

A. All developments shall be planned, designed, constructed and maintained with maximum regard to natural terrain features and topography, especially hillside areas, floodplains, and other significant land forms.

B. All grading, filling and excavating done in connection with any development shall be in accordance with Chapter 70 of the Uniform Building Code.

C. In addition to any permits required under the Uniform Building Code, all developments shall be planned, designed, constructed and maintained so as to:

1. Limit the extent of disturbance of soils and site by grading, excavation and other land alterations;

2. Avoid substantial probabilities of: (a) accelerated erosion; (b) pollution, contamination, or siltation of lakes, rivers and streams; (c) damage to vegetation; (d) injury to wildlife and fish habitats;

3. Minimize the removal of native vegetation that stabilize hillsides, retain moisture, reduce erosion, siltation and nutrient runoff, and preserve the natural scenic character.

(Ord. 415 § 7.106.020, 2002)

16.48.030 Hillsides.

All development proposals containing slope hazard areas shall be subject to this section.

A. "Slope hazard areas" are those areas subject to a severe risk of landslide or erosion. They include any of the following areas:

1. Any area containing slopes greater than or equal to fifteen (15) percent and one of the following subsections;

a. Impermeable soils (typically silt and clay) frequently interbedded with granular soils (predominately sand and gravel),

b. Any area located on areas containing soils which, according to the current version of the soil survey of Marion County, Oregon

may experience severe to very severe erosion hazard,

c. Any area located on areas containing soils which, according to the current version of the soil survey of Marion County, Oregon are poorly drained or subject to rapid runoff,

d. Springs or ground water seepage;

2. Any area potentially unstable as a result of natural drainageways, rapid stream incision, or stream bank erosion;

3. Any area containing slopes greater than or equal to twenty (20) percent.

B. No partition or subdivision shall create any new lot which cannot be developed under the provisions of this section.

C. The P~~p~~lanning C~~c~~ommission may approve an application for development in a slope hazard area when the use is permitted by the base zoning, and the following findings are made:

1. The proposed land form alterations shall preserve or enhance slope stability;

2. The proposed land form alteration will not result in erosion, stream sedimentation, ground instability, or other adverse on-site and off-site effects or hazards to life or property;

3. The proposed land form alteration addresses stormwater runoff, maintenance of natural drainageways, and does not increase existing flow intensity;

4. The proposed building site(s) is appropriately sited not requiring mass pad grading or terracing;

5. The proposed structure(s) is designed to ensure structural stability and proper drainage of foundation and crawl space areas;

6. Construction activities will occur in drier weather, no earlier than April 15th and no later than October 1st;

7. Where removal of natural vegetation is proposed, the areas not covered by structures or impervious surfaces will be protected from erosion during the construction process and replanted prior to November 1st to prevent erosion.

D. An application for development in a slope hazard area shall include:

1. An engineering geotechnical study and supporting data demonstrating that the site is stable for the proposed use and development;

2. The study shall include at a minimum geologic conditions, soil types and nature, soil strength, water table, history of area, slopes, slope stability, erosion, affects of proposed construction, and recommendations. This study shall be completed by a registered geotechnical engineer in the state of Oregon. The plans and specifications shall be based on the study recommendations shall be prepared and signed by a professional civil engineer registered in the state of Oregon;

3. A stabilization program for the slope hazard area based on established and proven engineering techniques that ensure protection of public and private property and prepared and signed by a professional civil engineer registered in the state of Oregon;

4. A plan showing the proposed stormwater system prepared and signed by a professional civil engineer registered in the state of Oregon. The system will not divert stormwater into slope hazard areas.

E. A structure constructed prior to the adoption of this title which would be subject to the limitations and controls imposed by this chapter shall comply with the provisions of this chapter if more than fifty (50) percent of the existing structure is damaged or destroyed or enlargement of the footprint is proposed.

(Ord. 415 § 7.106.030, 2002)

16.48.040 Rivers and stream corridors.

A. All developments shall be planned, designed, constructed, and maintained so that:

1. River and stream corridors are preserved to the maximum extent feasible and water quality is protected through adequate drainage and erosion control practices;

2. Buffers or filter strips of natural vegetation are retained along all river and stream banks;

3. Standards:

a. Riparian vegetation that protects stream banks from eroding shall be maintained or enhanced along Mill Creek or the Pudding River for a minimum of fifty (50) feet from the top of the bank,

b. Along minor drainageways for a minimum of ten (10) feet from the channel bottom center line plus one additional foot for each one percent of slope greater than twelve (12) percent,

c. Along seasonal drainageways for a minimum of ten (10) feet from the channel bottom center line.

This standard policy should not be construed to mean that clearing of debris from the stream bed itself is prohibited, subject to applicable state and federal laws.

B. The minimum separation distance necessary to maintain or improve upon existing water quality shall be the required setback for buildings or structures proposed along side of any river or perennial streambed. This distance shall be determined by a site investigation, but will not be less than fifty (50) feet or exceed one hundred fifty (150) feet for uses permitted in the flood plain shown on the FEMA maps. For all other uses, structures shall be sited outside the flood plain shown on the FEMA maps. Investigation shall consider:

1. Soil types;

2. Types and amount of vegetation cover;

3. Bank stability;

4. Slope of the land abutting the streams;

5. Hazards of flooding; and

6. Stream character.

C. All development proposed in flood plain areas shall be governed by provisions of Chapter 16.18.

D. The siting/construction of subsurface sewage disposal fields within the flood plain shown on the FEMA maps or within one hundred (100) feet of any water course is prohibited.

E. The unauthorized diversion of impoundment of stream courses which adversely impact fisheries, wildlife, water quality or flow is prohibited.

(Ord. 415 § 7.106.040, 2002)

16.48.050 Wetlands.

The National Wetlands Inventory does not identify any areas of wetlands in the city. Should areas be identified as containing wetlands, development shall be in accordance with the requirements of the state of Oregon.

(Ord. 415 § 7.106.050, 2002)

16.48.060 Standards for earth movement hazard areas.

A. No development or grading shall be allowed in areas where land movement, slump or earth flow, and mud or debris flow, is observed except under one of the following conditions:

1. Stabilization of the identified hazardous condition based on established and proven engineering techniques which ensure protection of public and private property. Appropriate conditions of approval may be attached by the city;

2. An engineering geologic study approved by the city establishing that the

site is stable for the proposed use and development. The study shall include the following:

a. Index map,

b. Project description, to include: location; topography, drainage, vegetation; discussion of previous work; and discussion of field exploration methods,

c. Site geology, to include: site geologic map; description of bedrock and superficial materials including artificial fill; location of any faults, folds, etc.; and structural data including bedding, jointing, and shear zones,

d. Discussion and analysis of any slope stability problems,

e. Discussion of any off-site geologic conditions that may rose a potential hazard to the site or that may be affected by on-site development,

f. Suitability of site for proposed development from geologic standpoint,

g. Specific recommendations for cut slope stability, seepage and drainage control, or other design criteria to mitigate geologic hazards,

h. Supportive data, to include: cross sections showing subsurface structure; graphic logs of subsurface explorations; results of laboratory tests; and reference,

i. Signature and certification number of engineering geologist registered in the state of Oregon,

j. Additional information or analysis as necessary to evaluate the site.

B. Vegetative cover shall be maintained or established for stability and erosion control purposes.

C. Diversion of storm water into these areas shall be prohibited.

(Ord. 415 § 7.106.060, 2002)

16.48.070 Standards for soil hazard areas.

A. The principal source of information for determining soil hazards shall be the USDA Soil Conservation Soil Survey for Marion County and accompanying maps.

B. Where soil hazards are identified in the USDA Soil Conservation Soil Survey, approved site specific soil studies shall be required to identify the extent and severity of the hazardous conditions on the site. An engineered design shall be required to insure structural stability and property drainage of foundation and crawl space areas. (Ord. 415 § 7.106.070, 2002)

Chapter 16.50

TELECOMMUNICATIONS FACILITIES

Sections:

16.50.010 Purpose.
16.50.020 Definitions.
16.50.030 Applicability.
16.50.040 General requirements.
16.50.050 Uses not requiring a permit.
16.50.060 Administrative approval of certain uses.
16.50.070 Planning Ceommission approval required.
16.50.080 Application submittal requirements.
16.50.090 Equipment storage facilities.
16.50.100 Removal of abandoned antennas and tower.
16.50.110 Preexisting towers and antennas.

16.50.010 Purpose.

The purposes of this chapter are to:

A. Register telecommunication providers within the city in order to ensure compliance with this chapter;

B. Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently;

C. Ameliorate any impacts upon residents of the city and the municipality of expanding needs for telecommunications facilities;

D. Assure the highest degree of coordination between residents of the city and the telecommunications industry in achieving the desirable objective of both the industry and the public;

E. Minimize any adverse impacts of towers and antennas on residential areas and land uses;

F. Minimize the total number of towers throughout the community;

G. Ensure that the height of towers in the Aurora area are not higher than reasonably necessary and that they are to the maximum extent possible integrated into the terrain and architecture of Aurora;

H. Encourage users of towers and antennas to configure them in a way that minimizes any adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques, consistent with state and federal requirements, including FAA requirements;

I. Encourage the joint use of tower sites as a primary option rather than construction of additional single-use towers;

J. Avoid potential damage to adjacent properties from tower;

K. Comply with all other regulatory requirements imposed by the federal and state government; and

L. Minimize fiscal impacts upon taxpayers due to increased use of public rights-of-way by deregulated commercial enterprises such as telecommunications owners.

(Ord. 415 § 7.108.010, 2002)

16.50.020 Definitions.

As used in this chapter the following terms shall have the meanings set forth below:

"Antenna" means any exterior transmitting or receiving device which may be mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

"Back-haul network" means the lines that connect a provider’s towers/cell sites to one

or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.

"Cable Act" means the Cable Communications Policy Act of 1984, 47 U.S.C Section 532, et seq., as now and hereafter amended.

"Cable operator" means a telecommunications owner providing or offering to provide "cable service" within the city as that term is defined in the Cable Act.

"Cable service" for the purpose of this section shall have the same meaning provided by the Cable Act.

"City" means the city of Aurora.

"Equipment cabinet" means a storage cabinet used exclusively for the protection of telecommunications equipment.

"Excess capacity" means the surplus volume or surplus space in any existing or future duct, conduit, manhole, handhole, pole, tower, structure or other utility facility that is or will be available for use for additional telecommunications facilities.

"Facemount antenna" means a camouflaged antenna attached to and covering a small portion of the surface of a building, architecturally integrated into the supporting structure.

"FAA" means the Federal Aviation Administration.

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

"Height" means, when referring to a tower antenna or other telecommunications structure, the distance measured from the finished grade to the highest point on the tower, antenna or other structure, including the base pad and any antenna.

"Linear facilities" means lines, cables, fibers, or any other such facility, whether or not a telecommunications facility which is linear in nature and which is used for the transmission of water, gas, electricity, data, video images, voice images or other such services.

"Person" means and includes corporations, companies, associations, joint stock companies or associations, firms, partnerships, limited liability companies and individuals and includes their lessors, trustees and receivers.

"Preexisting towers and preexisting antennas" means any tower or antenna for which a building permit has been issued prior to the effective date of this chapter, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired and including towers and antennas given interim approvals during the pendency of this chapter and not found by the governing body to be contrary to the purposes of this chapter.

"PUC" or "Public Utilities Commission" means the state administrative agency, or lawful successor, authorized to regulate and oversee telecommunications owners, services and providers in the state of Oregon.

"Residentially zoned property" means those zones within the city which primarily permit accommodation of residential housing including: R-1, R-2, R-3, and any properties located in the historic residential overlay.

"Roof-mounted antennas" means and includes a telecommunications facility placed on a rooftop through gravity mounts or other surface attachments and integrated into the natural rooftop profile of the building so as to resemble a permissible rooftop structure, such as a ventilator, cooling equipment, solar equipment, water

tank, chimney, or parapet and to be no higher than twelve (12) feet above the roof.

"State" means the state of Oregon.

"Telecommunication services" means the providing or offering for rent, sale or lease, or in exchange for other value received, of the transmittal of voice, data, image, graphic and video programming information between or among points excluding only cable services.

"Telecommunications facilities" means the plant, equipment and property, including but not limited to, fiber optic lines, cables, wires, conduits, ducts, pedestals, towers, antennas, electronics and other appurtenances used or to be used to transmit, receive, distribute, provide or offer telecommunications services.

"Telecommunications owner" means and includes every person that directly or indirectly owns, controls, operates or manages plant, equipment or property within the city, used or to be used for the purpose of offering telecommunications service.

"Telecommunications provider" means and includes every person who provides telecommunications service over telecommunications facilities without any ownership or management control of the facilities.

"Tower" means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas telecommunications services, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, tower alternative structures, and the like. The term includes the structure and any support thereto.

"Tower alternative" means manmade trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

"Usable space" means the total existing capacity of a tower, conduit, pole, building or other structure physically available for siting telecommunications facilities.

"Utility easement" means any easement owned by the city and acquired, established, dedicated or devoted for public utility purposes.

"Utility facilities" means the plant, equipment and property, including but not limited to the poles, pipes, mains, conduits, ducts, cables, wires, plant and equipment located under, on or above the surface of the ground within the city properties of the city, but excluding telecommunications facilities.

(Ord. 415 § 7.108.020, 2002)

16.50.030 Applicability.

All towers or antennas located within the city limits whether upon private or public lands shall be subject to this chapter. This chapter shall apply to towers and antennas upon state and federal lands to the extent of the city’s jurisdiction by way of law, pursuant to any memoranda of understanding or otherwise. Only the following facilities shall be excepted from the application of this chapter:

A. Amateur Radio Station Operators/Receive Only Antennas. This section shall not govern any tower, or the installation of any antenna, that is under seventy (70) feet in height; and, approved by the FAA if over thirty-five (35) feet in height; and, owned and operated by a federally licensed amateur radio station operator;

B. Emergency Services. Towers and antennas used exclusively for emergency services including police, fire, and operation of the city water utility.

(Ord. 415 § 7.108.030, 2002)

16.50.040 General requirements.

A. All towers are regarded as major impact utilities for the purpose of determining zoning districts where towers may be permitted. Tower alternatives may be regarded as minor impact utilities for the purpose of determining zoning districts. All towers and antennas shall comply with the existing city codes including the requirements for obtaining a building permit.

B. Antennas and towers/tower alternatives may be considered either a principal or an accessory use depending upon whether they are used principally for the benefit of others not located upon the land or as an accessory in aid of other activities occurring upon the land. A different existing use on the same lot shall not preclude the installation of an antenna or tower on such lot.

C. For purposes of determining whether the installation of a tower/tower alternative or antenna complies with these regulations, the dimensions of the entire lot shall control, even though the antennas or tower/tower alternatives may be located on leased parcels within such lot.

D. Each applicant for an antenna and/or tower/tower alternative shall provide to the planning and land use department an inventory of its existing towers/tower alternatives, antennas, or sites approved for tower/tower alternatives or antennas, that are both within the jurisdiction of the city and within three miles of the border thereof, including specific information about the location, height, and design of each tower/tower alternative. The planning and land use department may share such information with all members of the public provided, however, that the planning and land use department is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

E. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen shall cause the least disturbance to the surrounding properties. Tower alternatives shall not be artificially lighted.

F. To ensure the structural integrity of tower/tower alternatives, the owner of a tower/tower alternative shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for tower/tower alternatives that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the city concludes that a tower/tower alternative fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower/tower alternative, the owner shall have thirty (30) days to bring such tower/tower alternative into compliance with such standards. Failure to bring such tower/tower alternative into compliance within the thirty (30) days shall constitute grounds for the removal of the tower/tower alternative or antenna at the owner's expense and shall also constitute an abandonment of the tower/tower alternative.

G. Owners and/or operators of tower/tower alternatives or antennas shall certify in writing that all franchises, leases and other contracts, if any, for use of real property required by the PUC, SCC, FCC, FAA or any other regulatory body for the construction and/or operation of a telecommunication system in the city have been obtained.

H. Approvals issued under this chapter shall be processed in accordance with Chapter 16.60.

I. No signs shall be allowed on an antenna or tower/tower alternative unless the signs are necessary for safety reasons or for compliance with the law. If a sign is required it shall comply with all local ordinances regarding signage unless a federal or state law requires otherwise.

J. Telecommunications owners shall submit an annual application for approval of multiple tower/tower alternatives and/or antenna sites to be constructed within the city within a year.

K. All property used for siting of tower/tower alternatives or antennas shall be maintained, without expense to the city, so as to be safe, orderly, attractive, and in conformity with all city codes including those regarding removal of weeds and trash.

L. If the construction requires the location of underground facilities, such facilities shall be surveyed by depth, line, grade, proximity to other facilities or other standard, the permittee shall cause the location of such facilities to be verified by a registered Oregon land surveyor. The permittee shall relocate its own facilities which are not located in compliance with permit requirements. If conduit is to be constructed and placed within or upon city property the conduit shall be dedicated to the city.

M. Upon order of the P~~p~~lanning D~~d~~irector all work outside of city rights-of-way which does not comply with the application plans and specifications for the work, or the requirements of this section or approval authority, shall be removed or made to comply within sixty (60) days. Upon order of the public works director all work within city rights-of-way which does not comply with the application plans and specifications for the work, or the requirements of this section, shall be removed or made to comply within sixty (60) days. Permittee is only responsible for its own facilities.

N. The applicant shall promptly complete all construction activities affecting city-owned property so as to minimize disruption of the leasable city property.

O. The permittee, within sixty (60) days after completion of construction of all approved tower/tower alternatives and antennas, 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.

P. Upon completion of any tower/tower alternative or antenna construction work, the permittee shall promptly repair any and all public and private property improvements, fixtures, structures and facilities in city property damaged during the course of construction, restoring the same as nearly as practicable to its condition before the start of construction.

Q. All vegetation, landscaping and grounds removed, damaged or disturbed as a result of the construction, installation maintenance, repair or replacement of tower/tower alternatives or antennas, shall be replaced or restored, by the permittee, as nearly as practicable to the condition existing prior to performance of work. All restoration work within city property shall be done in accordance with applicable city code.

R. The city will require a signed affidavit from applicant acknowledging that, regardless of any agreements between the applicant and property owner, the property owner has been advised that he or she may be responsible for the removal of all tower/tower alternatives and antennas upon abandonment.

S. All applications which involve work on, in, under, across or along any public rights-of-way shall be accompanied by a

traffic control plan demonstrating the protective measures and devices that will be employed, if any, consistent with Uniform Manual of Traffic Control Devices, to prevent injury or damage to persons or property and to minimize disruptions to efficient pedestrian and vehicular traffic.

T. No towers or antennas shall be permitted upon lands or structures which are designated as cultural resources in the Aurora comprehensive plan.

U. All tower/tower alternatives and antennas and affiliated facilities including but not limited to telecommunications facilities shall be designed and constructed in such a manner as to minimize noise to the maximum extent technically feasible by way of insulation and sound-proofing. Additionally, no tower/tower alternatives or antennas shall be permitted if they violate the city's noise ordinance.

V. Heights shall be generally limited to the overlying or underlying zoning height limits, whichever are more restrictive. Any tower/tower alternative or antenna exceeding the height limit imposed by this general requirement shall require a variance pursuant to chapter and a demonstration before the appropriate reviewing body that compliance with this general requirement can not be achieved by use of alternative locations and without loss of telecommunications service coverage.

W. Any tower/tower alternative or antenna to be built within the airport overlay shall be built in conformity with all FAA and FCC regulations and shall not cause a risk to aviation traffic by way of physical obstruction or signal interference.

X. A condition of all permits for new tower construction shall be that the permittee shall allow co-location, to the extent feasible, of telecommunications facilities at commercially reasonable rates upon or within the site that is the subject of such permit.

Y. Separation distances shall be measured by drawing or following a straight line between the base of any existing tower/tower alternative and the proposed base of a new tower/tower alternative. The minimum separation distances shall be one thousand (1,000) feet.

Z. All tower/tower alternatives shall be set back a distance equal to at least one hundred (100) percent of the height of the tower/tower alternative from any adjoining lot line. The setback distances shall be measured by drawing a straight line between the base of the tower/tower alternative or antenna and the nearest adjacent property line.

(Ord. 415 § 7.108.040, 2002)

16.50.050 Uses not requiring a permit.

A permit or approval, excepting only a building or electrical permit if otherwise required, is not required for the construction or use of the following antennas and tower/tower alternatives so long as they comply with the following requirements. Nothing herein shall constitute a waiver of the city's enforcement authority in the event that a particular tower/tower alternative or antenna is either noncomplying with the following criteria or is deemed to constitute a safety hazard, a risk to public safety or otherwise in violation of law:

A. Antennas and other over-the-air receiving devices, for the reception of video images as defined and regulated by FCC Report and Order #96-328, which devices do not exceed one meter in diagonal length or diameter or are designed to receive television broadcast signals only. The antenna, located in historical districts and residential zones, to the maximum extent possible, without interfering with signal reception, and without performing new or

additional construction, is screened from view of adjacent properties and adjacent public rights-of-way. Antennas may not be required to be screened if the screening device would create a greater visual impact than the unscreened antennas. The screening may include existing parapets, walls, or similar architectural elements provided that it is painted and texturized to integrate with the architecture of the building. As an alternative screening method, landscaping positioned on the premises to screen antennas from adjacent properties may be proposed in lieu of architectural screening;

B. The site is located outside the historic commercial and historic residential overlays.

(Ord. 415 § 7.108.050, 2002)

16.50.060 Administrative approval of certain uses.

The following uses may be approved by the Pplanning Ddirector for sites outside the historic commercial and historic residential overlays after an administrative review pursuant to Chapter 16.78:

A. New Antennas on Existing Towers or Structures. An antenna which is attached to an existing tower or structure may be administratively approved. Co-location of antennas by more than one carrier on existing towers or structures shall take precedence over the construction of new towers. Co-location of antennas on existing towers or structures shall comply with all the following:

1. No antenna shall extend more than thirty (30) feet above the highest point of the structure;

2. The antenna shall comply with all applicable FCC and FAA regulations;

3. The antenna shall comply with all applicable building codes; and

4. The antenna shall not exceed the height limitation for the underlying or overlay zoning unless the antenna is placed on a preexisting tower or structure and does not exceed the height of the tower or structure.

B. Relocated Tower/Tower Alternatives. Onsite relocation of tower/tower alternatives may be approved administratively if:

1. A tower/tower alternative which is being rebuilt to accommodate the co-location of one or more additional antennas may be moved onsite within fifty (50) feet of its existing location;

2. Such relocation shall not increase the number of tower/tower alternatives remaining on the site;

3. A relocated onsite tower/tower alternative shall continue to be measured from the original tower/tower alternative location for purposes of calculating separation distances between tower/tower alternatives;

4. The height of a relocated tower/tower alternative shall be in compliance with the underlying and overlay zoning.

C. A cable microcell network may be approved administratively if it constitutes the use of multiple low-powered transmitters/receivers attached to existing wireline systems, such as conventional cable or telephone wires, or similar technology that does not require the use of tower/tower alternatives.

(Ord. 415 § 7.108.060, 2002)

16.50.070 Planning Cceommission approval required.

A. Any tower/tower alternative or antenna which is not otherwise permitted or administratively approved or which permit or administrative approval is appealed shall be brought for consideration to the Pplanning Cceommission. Planning Cceommission approval shall be required for the construction and placement of all tower/tower alternatives and antenna in all zoning districts unless the construction or

placement is otherwise permitted or administratively approved pursuant to this section.

B. Applications for tower/tower alternatives and antennas under this section shall be subject to the procedures and requirements of Chapter 16.60, except as modified in this section.

C. Unless a variance is granted pursuant to Chapter 16.64, height shall be limited to the overlying or underlying district, whichever is more restrictive.

D. No new tower shall be allowed unless the applicant makes an adequate showing that tower alternatives are not viable.

E. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the planning commission that no existing tower or structure can be used in lieu of new construction to accommodate the applicant's proposed telecommunications facility. An applicant shall submit information to the P~~p~~lanning C~~c~~ommission related to the availability of suitable existing towers and other structures. Evidence submitted to demonstrate that no existing tower or structure can reasonably accommodate the applicant's proposed telecommunications facilities may consist of any of the following:

1. No existing towers or structures are located within the geographic area which meet applicant's engineering requirements;

2. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements;

3. Existing towers or structures do not have sufficient structural strength or space available to support applicant's proposed telecommunications facilities and related equipment;

4. The applicant's proposed telecommunications facilities would cause unavoidable electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed telecommunications facilities;

5. There are other limiting factors that render existing towers and structures unsuitable;

6. The site is located outside the historic commercial and historic residential overlays.

F. The P~~p~~lanning C~~c~~ommission shall require that towers or antennas be enclosed by fencing or walls not less than six feet nor more than eight feet in height and designed to have the least negative impact upon the streetscape and may also require that any tower be equipped with an appropriate anti-climbing device.

G. The P~~p~~lanning C~~c~~ommission may require landscaping surrounding towers and antennas. Existing vegetation and natural land forms on the site shall be preserved to the maximum extent possible. (Ord. 415 § 7.108.070, 2002)

16.50.080 Application submittal requirements.

A. Applications shall be made on forms provided by the city.

B. Applications shall include a narrative discusses how the proposal conforms to the standards in Section 16.60.040 and the standards of this chapter.

C. Applications shall include a scaled site plan clearly indicating the location, type and height of the proposed tower/tower alternative, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other jurisdictions), general plan classification of the site, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower/tower alternative and any other structures, topography, parking, and other

information deemed by the P~~p~~lanning D~~d~~irector to be necessary to assess compliance with this section.

D. Applications shall include a legal description of the parent tract and leased parcel including a copy of the plat of survey for the planning and land use department's verification that all facilities are placed upon a legal lot of record.

E. Applications shall include the setback distance between the proposed tower/tower alternative and residentially zoned property.

F. Applications shall include the separation distance from other tower/tower alternatives shall be shown on an updated site plan or map. The applicant shall also identify all existing tower/tower alternative(s) within one thousand (1,000) feet and the owner/operator of the nearest existing tower/tower alternative.

G. Applications shall include a landscape plan showing specific landscape materials.

H. Applications shall include method of fencing, and finished color and, if applicable, the method of camouflage.

I. Applications shall include a notarized statement by the applicant as to whether construction of the tower will accommodate co-location of additional antennas for future users.

J. Applications shall include identification of the entities providing the back-haul network for the tower/tower alternative(s) described in the application and other wireless sites owned or operated by the applicant in the municipality.

K. Applications shall include description detailing the scientific, technical or engineering concerns which use of tower alternatives not viable under Section 16.50.070(D) and stating precisely why the use of existing towers and other structures is not viable.

L. Applications shall include a description of any locations for additional tower/tower alternatives or antennas to be constructed within a year of the requested special exception.

M. Any other information reasonably required by the P~~p~~lanning D~~d~~irector in order to determine if applicant has substantially complied with this chapter.

N. Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer.

(Ord. 415 § 7.108.080, 2002)

16.50.090 Equipment storage facilities.

The equipment used in association with an antenna or tower/tower alternative shall be safely stored in a building or equipment cabinet.

A. If the equipment is stored in a building, the building shall meet all applicable code requirements for buildings excepting only that there shall be no parking requirement for the tower/tower alternative or antenna use. Any other uses of the building shall meet applicable parking requirements.

B. If the equipment is stored in an equipment cabinet, the equipment cabinet shall be no more than ten (10) feet in length and width and no more than five feet in height. The equipment cabinet shall be placed in the least visible section of the parcel, land or facility and shall be constructed and painted in a manner so as to minimize the visibility of the equipment cabinet, unless part of a city approved or sponsored art program.

C. All equipment storage facilities shall comply with all applicable electrical, building, plumbing, and any other safety codes.

(Ord. 415 § 7.108.090, 2002)

16.50.100 Removal of abandoned antennas and tower.

Any antenna or tower that is not utilized for provision of telecommunications services for a continuous period of six months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within ninety (90) days of receipt of notice from the city notifying both parties of such abandonment. Failure to remove an abandoned antenna or tower within the ninety (90) days shall be grounds to remove the tower or antenna at both parties' expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

(Ord. 415 § 7.108.110, 2002)

16.50.110 Preexisting towers and antennas.

Preexisting towers and antennas for which a building permit has been issued prior to the effective date of this chapter shall be allowed to continue operation as they presently exist. All other antennas and towers, except relocated towers under Section 16.50.060(B), shall be treated as new towers or antennas and shall be required to comply with this section. Routine maintenance, reconstruction, replacement and placement of additional antennas on such preexisting towers shall be permitted. Other new construction of towers and antennas shall comply with the requirements of this section.

(Ord. 415 § 7.108.120, 2002)

Chapter 16.52

TEMPORARY USES OR STRUCTURES

Sections:

16.52.010 Purpose.
16.52.020 Application submission requirements.
16.52.030 Temporary use administration and approval.
16.52.040 Temporary structure administration and approval.

16.52.010 Purpose.

The purpose of the temporary use permit is to permit commercial activities that are small scale and short term in nature and generally promote celebration of specific events, holidays and seasons. Examples include, but are not limited to, temporary uses associated with existing licensed businesses, fireworks stands, Christmas tree sales, seasonal produce sales and farmers markets.

The purpose of the temporary structure approval is to permit property owners to utilize temporary structures for up to one year. Examples include, but are not limited to temporary construction offices and leasing offices for previously approved developments. (Ord. 419 § 11, 2002; Ord. 415 § 7.110.010, 2002)

16.52.020 Application submission requirements.

A. All applications for temporary uses or temporary structures shall be made on forms provided by the city and shall be accompanied by:

1. A site plan drawn to standard engineering scale showing the location of the temporary use or temporary structure, the entrance and exits from the site, areas to be designated for parking, if applicable, and any requested signs;

2. A letter from the property owner of record giving approval for the proposed temporary use or structure;

3. A completed business license application for the temporary use.

B. Approval under Title 17 ~~certificate of appropriateness~~ is required for all temporary structures that require a temporary structure permit under Section 16.52.040 if such structures are located on sites identified as historic or cultural resources in the Aurora comprehensive plan or located in the historic residential or historic commercial overlays. (Ord. 419 § 22, 2002; Ord. 415 § 7.110.020, 2002)

16.52.030 Temporary use administration and approval.

A. The P~~p~~lanning D~~d~~irector may approve a temporary use based on following criteria:

1. The temporary use is located in the commercial zone or in the industrial zone and the parcel of land on which the temporary use will be located is zoned consistent with the proposed temporary use.

2. The temporary use will last for no more than two, separate, contiguous seven-day periods in any one calendar year within the historic commercial overlay and the two periods shall not be permitted back-to-back. In the commercial and industrial zones outside the historic commercial overlay, the temporary use will last for no more than a total of fourteen (14) days in any one calendar year.

3. The temporary use and all items related to the temporary use shall be removed from the site prior to expiration of the approval period.

4. No regulations prohibiting the activity are identified in a review of the Aurora Municipal Code and Oregon Revised Statues.

5. No structures, including tents, booths or canopies greater than one hundred twenty (120) square feet are permitted under this section. A temporary structure permit under Section 16.52.040 is not required for structures related to a temporary use permitted under this section.

6. No changes will occur to existing vegetation or land forms as a result of the temporary use.

7. The temporary use and all items related to the temporary use will be located on private property and outside of any rights-of-way that are owned by the state or the city.

8. The temporary use and all items related to the temporary use shall not negatively impact parking or traffic circulation on the property or on adjacent streets.

9. The temporary use and all items related to the temporary use will not negatively impact the line of sight for vehicles entering and exiting the site.

10. Utility locates are required prior to any activity that requires may impact underground utilities including placing posts for signs or tent stakes.

B. No notice of decision is required except a permit stating how the application satisfies the criteria in subsection A of this section and specifying the dates for which the approval is valid. A copy of this permit shall be attached to the business license application as filed in City Hall.

C. Approvals issued under this section shall not be granted extensions of time.

(Ord. 419 § 12, 2002; Ord. 415 § 7.110.030, 2002)

16.52.040 Temporary structure administration and approval.

A. Temporary structures are structures designed to be portable and moveable, to be located on a specific site for a period no greater than one year.

B. Applications for temporary structure permits shall be processed in accordance with Chapter 16.76.

C. Subject to approval by the P~~p~~lanning C~~c~~ommission, temporary structures may be sited in any zoning district, except the FH flood hazard zone.

D. Subject to approval by the P~~p~~lanning C~~c~~ommission, a recreational vehicle may be occupied as a temporary residence in a residential zone when a building permit has been issued for construction of a primary residence on the same lot or parcel.

E. The P~~p~~lanning C~~c~~ommission shall approve, approve with conditions, or deny an application for a temporary structure based on findings of fact with respect to each of the following criteria:

1. The characteristics of the site are suitable for the proposed temporary structure considering size, shape, location, topography and natural features;

2. Necessary public utilities are available to serve the proposed temporary structure;

3. The setback requirements of the zoning district are met;

4. The use is compatible with surrounding properties or will be made compatible by imposing conditions. A ~~certificate of appropriateness from the historic review board~~pproval under Title 17 is required for sites located in the historic commercial or historic residential overlay.

(Ord. 415 § 7.110.040, 2002)

Chapter 16.54

ACCESSORY DWELLING UNITS

Sections:

16.54.010 Purpose.
16.54.020 Applicability and administration.
16.54.030 Application submittal requirements.
16.54.040 Approval standards.

16.54.010 Purpose.

Accessory dwelling units are allowed in certain situations to:

A. Create new housing units while respecting the look and scale of single-dwelling neighborhoods;

B. Allow more efficient use of existing housing stock and infrastructure;

C. Provide a mix of housing that responds to changing family needs and smaller households;

D. Provide a means for residents, particularly seniors, single parents, and families with grown children, to remain in their homes and neighborhoods, and obtain extra income, security, companionship and services; and

E. Provide a broader range of accessible and more affordable housing. (Ord. 415 § 7.112.010, 2002)

16.54.020 Applicability and administration.

A. An accessory dwelling unit may be added to any single-family detached dwelling or manufactured home in any residential (R) zoning district.

B. Approvals for accessory dwellings shall be approved administratively pursuant to Chapter 16.78, except for accessory dwelling units requiring exterior modifications on properties and detached accessory dwelling units located in the historic residential overlay which shall require approval by the H~~h~~istoric R~~r~~eview B~~b~~oard pursuant to Chapters 17.16 and 17.24 prior to administrative approval. (Ord. 455 § 10, 2010; Ord. 415 § 7.112.020, 2002)

16.54.030 Application submittal requirements.

All applications for accessory dwelling units shall be made on forms provided by the city and shall be accompanied by:

A. A site plan drawn to standard engineering scale showing the location of the accessory dwelling unit, the entrance and exits from the site, and areas to be designated for parking;

B. A completed building permit application, if applicable. (Ord. 415 § 7.112.030, 2002)

16.54.040 Approval standards.

A. Standards for creating accessory dwelling units address the following purposes:

1. Ensure that accessory dwelling units are compatible with the desired character and livability of Aurora's residential zones;

2. Respect the general building scale and placement of structures to allow sharing of common space on the lot, such as driveways and yards;

3. Ensure that accessory dwelling units are smaller in size than principal dwelling units; and

4. Provide adequate flexibility to site buildings so that they fit the topography of sites.

5. Ensure that there is only one accessory dwelling unit per lot.

B. The design standards for accessory dwelling units are stated in this section. If not addressed in this section, the base zone development standards apply.

C. An accessory dwelling unit may only be created through the following methods:

1. Converting existing living area, attic, basement or garage;

2. Adding floor area;

3. Constructing a detached accessory dwelling unit on a site with an existing single-family detached dwelling or manufactured home; or

4. Constructing a new single-family detached dwelling or siting a new manufactured home with an internal or detached accessory dwelling unit.

D. Only one entrance to a residence may be located on the front facade of the single-family dwelling or manufactured home facing the street, unless the single-family dwelling or manufactured home contained additional front doors entrances before the conversion accessory dwelling unit was created. An exception to this regulation is entrances that do not have access from the ground such as entrances from balconies or decks.

E. The size of the accessory dwelling unit may be no more than fifty (50) percent of the living area of the principal building or 1,000 square feet, whichever is less.

F. Accessory dwelling units created through the addition of floor area must meet the following:

1. The exterior finish material must be the same or visually match in type, size and placement, the exterior finish material of the existing single-family detached dwelling or manufactured home.

2. The roof pitch must be the same as the predominant roof pitch of the existing single-family detached dwelling or manufactured home.

3. Trim on edges of elements on the addition must be the same in type size and location as the trim used on the rest of the existing single-family detached dwelling or manufactured home.

4. Windows must match those in the existing single-family detached dwelling or manufactured home in proportion (relationship of width to height) and orientation (horizontal or vertical).

G. Detached accessory dwelling units must meet the following:

1. The accessory dwelling unit must be setback at least six feet behind the front building line of the detached single family dwelling or manufactured home.

2. The maximum height for a detached accessory dwelling unit shall not exceed the height of the principal structure. Accessory dwelling units constructed over an accessory building such as a garage or work space shall not exceed the height of the principal structure.

3. The accessory dwelling unit shall be set a minimum of five (5) feet from the principal structure.

4. The exterior finish and trim material must be visually compatible in type, size and placement, the exterior finish material of the single-family detached dwelling or manufactured home.

5. The roof pitch must be the same as the predominant roof pitch of the single-family detached dwelling or manufactured home.

6. Windows must match those in the single-family detached dwelling or manufactured home in proportion (relationship of width to height) and orientation (horizontal or vertical).

H. All parking must meet the requirements of Chapter 16.42, for single-family residences, except as follows:

1. No additional parking space is required for the accessory dwelling unit if it is created on a site with an existing single-family dwelling or manufactured home and, the roadway surface on at least one abutting street is at least eighteen (18) feet wide.

2. One additional parking space is required for the accessory dwelling unit when:

a. None of the abutting street roadway surfaces are at least eighteen (18) feet wide;

b. When the accessory dwelling unit is created at the same time as the single-family detached dwelling is constructed or the manufactured home is sited. (Ord. 415 § 7.112.040, 2002)

I. All setback requirements applicable to the base residential zone shall apply to accessory dwelling units.

J. Either the principal residence or the accessory dwelling unit must be occupied by the owners of the property. Accessory dwelling units shall not be subdivided or otherwise segregated in ownership from the principal building. The owners shall sign an affidavit affirming that the owners will occupy the principal building or the accessory dwelling unit as their principal residence for at least six months every year. The owners shall sign a covenant agreeing to the conditions of this section that shall be recorded with the Marion County Clerk's office. The form of the affidavit and covenant shall be specified by the City.

K. There may be only one accessory dwelling unit per lot.

(Ord. 455 § 11, 2010)

Chapter 16.56

GATEWAY PROPERTY DEVELOPMENT STANDARDS

Sections:

16.56.010 Purpose.
16.56.020 Applicability.
16.56.030 Administration and approval process.
16.56.040 General Site Development standards
16.56.050 Commercial Development standards.
16.56.060 Residential Development standards.

16.56.010 Purpose.

The City seeks to maintain a sense of place that is clearly apparent and consciously embraced. The gateway property development standards are designed to encourage development that provides visitors and residents with a sense of arrival and to enhance the City's national historic designation while being a good, healthy and economically viable place to live and work.
(Ord. 415 § 7.114.010, 2002)

16.56.020 Applicability.

All properties located outside the designated historic commercial overlay and the historic residential overlay and adjacent to Highway 99 or Ehlen Road shall be collectively referenced as "gateway properties." The standards of this chapter shall be interpreted to mean structures and property within a maximum of one hundred (100) feet or the first tier of buildings, whichever is greater, from the closest right of way line of Highway 99E or Ehlen Road.
(Ord. 462 § 1, 2011)

16.56.30 Administration and approval process.

A. The Planning Director shall follow the standards for decision making contained in AMC 16.78 and shall send formal agency referral notices and Planning Director decisions to the Planning Commission for all development permit applications involving Gateway Standards properties.

B. Because the application of Section 16.56 Gateway Standards to a development appears to be ministerial, objective and not discretionary (i.e. is the setback 10 feet greater than the setback of the base zone or not?) and because the approval of building permits is an administrative decision by the Planning Director, all development permit applications on Gateway District properties which do not otherwise require Planning Commission and/or City Council review and approval, shall be processed administratively under the requirements of AMC 16.78, including the authority of the Planning Director to refer any application to the Planning Commission for review.

C. The Planning Director and Planning Commission shall have the authority to consult with industry professionals (i.e. architects) and the Aurora Historic Review Board for help in understanding the application's compliance with architectural gateway standards.
(Ord. 462 § 1, 2011)

16.56.40 General Site Development Standards

A. The facades immediately adjacent to Highway 99E or Ehlen Road and greater than forty-five (45) feet in length shall be designed to convey a sense of division through the use of pilasters, window and door openings, recessed entries, off-sets or other architectural details.

B. Buildings immediately adjacent to Highway 99E or Ehlen Road shall not

exceed one hundred and fifty (150) feet in length without visual relief pass thru.

C. Except for residential uses allowed under the base zoning, parking shall not be located between the Highway 99E or Ehlen Road right-of-way and a structure.

D. A planting strip no less than six feet in width shall be provided between the sidewalks and the curb and the planting of street trees shall be required.

E. Pedestrian friendly, period street lamps are required as approved by the City and the Oregon Department of Transportation or Marion County, as applicable.

F. Antennas, aerials and satellite dishes and mechanical equipment shall be located so they will not be visible from Highway 99E or Ehlen Road or screened architecturally.

G. Signs shall be in accordance with Chapter 16.44.

H. Landscaping requirements shall be in accordance with Chapter 16.38.

I. Street lighting for Gateway properties shall be the similar to the style shown under Design Review Guidelines for Gateway Properties (Appendix B).

(Ord. 462 § 1, 2011)

16.56.050 Commercial Development Standards.

A. Structures containing commercial uses shall have no minimum front setback and a maximum ten (10) foot landscaped front setback. The Planning Commission may approve increases in the maximum front setback where such exception is necessary to locate a landscaped storm water retention/ detention facility in the front setback.

B. The facade shall be modeled after and similar to one of the commercial styles as illustrated and discussed in the City of Aurora Design Guidelines for Gateway Properties (See Appendix B). Secondary facades, those sides not facing Highway 99E or Ehlen, may have less architectural detailing and degree of finish than the primary façade. The Planning Commission may approve exceptions to this subsection when the applicant demonstrates the design satisfies all other requirements of this section and is compatible with the Aurora comprehensive plan, Section IX, Item A, Overlay Objectives.

C. The design shall include construction techniques, siding styles, color samples, and other materials and descriptions to display to the Planning Commission how the applicable criteria are being met. At a minimum, the front or façade facing Highway 99E and/or Ehlen Road shall include a minimum of four of the following elements from the selected style:

a) Window styles
b) Siding material
c) Roof style and material
d) Stone or brick façade detailing
e) Parapet details
f) Columns
g) Use of cornices, brackets and window moldings
h) Awnings, in line with past commercial structures
i) Use of recessed entries

D. Awnings. Brightly colored, flamboyant patterns and back lighting of canvas awnings are not permitted. Writing on canvas is permitted on commercial structures and is limited to border areas. Awnings shall fit with the style of window and be compatible with the architecture in color and design.

(Ord. 462 § 1, 2011)

16.56.060 Residential Development standards

A. For residential uses, the Highway 99E or Ehlen Road setback shall be ten (10) feet greater than the setback shown in the base zoning.

B. The facade shall be modeled after and similar to styles as illustrated and discussed

in the City of Aurora Design Review Guidelines for Historic District Properties (See Appendix B). Secondary facades, those sides not facing Highway 99E or Ehlen Road, may have less architectural detailing and degree of finish than the primary façade. The Planning Commission may approve exceptions to this subsection when the applicant demonstrates the design satisfies all other requirements of this section and is compatible with the Aurora comprehensive plan, Section IX, Item A, Overlay Objectives.

C. The design shall include construction techniques, siding styles, color samples, and other materials and descriptions to display to the Planning Commission how the applicable criteria are being met. At a minimum, the front or façade facing Highway 99E and/or Ehlen Road shall include a minimum of two of the following elements from the selected style. These elements are in addition to visual relief design features required under the base zone but meeting base zone requirements may help satisfy required design elements:

a) Pillars or posts,

b) Vertical window arrangements, either single, paired or triple, and trimmed with wood,

c) Horizontal siding in clapboard, shiplap, weatherboard, or tongue and groove four to six inches in width,

d) Bay or bow windows,

e) Recessed entries.

D. Roof. Sawn wood shingles with a five (5) inch reveal, architectural charcoal or black composition roofing are required. Primary roofs shall be similar to those found historically.

(Ord. 462 § 1, 2011)

Chapter 16.58

SITE DEVELOPMENT REVIEW

Sections:

16.58.010 Purpose.
16.58.020 Applicability of provisions.
16.58.030 Administration and approval process.
16.58.040 Phased development.
16.58.050 Bonding and assurances.
16.58.060 Major modification to approved plans or existing development.
16.58.070 Minor modification(s) to approved plans or existing development.
16.58.080 Application submission requirements.
16.58.090 Site development plans.
16.58.100 Approval standards.

16.58.010 Purpose.

The purpose and intent of site development review is to promote the general welfare by directing attention to site planning, and giving regard to the natural environment and the elements of creative design to assist in conserving and enhancing the appearance of the City. It is in the public interest and necessary for the promotion of the health, safety and welfare, convenience, comfort and prosperity of the citizens of the City:

A. To implement the City's comprehensive plan and other approval standards in this title;

B. To preserve and enhance the natural beauties of the land and of the manmade environment, and enjoyment thereof;

C. To maintain and improve the qualities of and relationships between individual buildings, structures and the physical developments which best contribute to the amenities and attractiveness of an area or neighborhood;

D. To protect and ensure the adequacy and usefulness of public and private developments as they relate to each other and to the neighborhood or area;

E. To ensure that each individual development provides for a quality environment for the citizens utilizing that development as well as the community as a whole.

F. In order to prevent the erosion of natural beauty, the lessening of environmental amenities, the dissipation of both usefulness and function, and to encourage additional landscaping, it is necessary:

G. To stimulate harmonious design for individual buildings, groups of buildings and structures, and other physical developments;

H. To integrate the functions, appearances and locations of buildings and improvements so as to best achieve a balance between private preferences, and the public interest and welfare.

(Ord. 415 § 7.120.010, 2002)

16.58.020 Applicability of provisions.

Site development review shall be applicable to all new developments and major modification of existing developments, as provided in Section 16.58.060 except it shall not apply to:

A. Single-family detached dwellings;

B. Single-family attached dwellings;

C. Manufactured homes on individual lots;

D. A duplex, which is not part of any other development;

E. A triplex, which is not part of any other development;

F. Minor modifications as provided in Section 16.58.070;

G. Any proposed development which has a valid conditional use approved through

the conditional use permit application process;

H. Family day care;

I. Home occupation (Type I and Type II);

J. Accessory dwelling unit or accessory structures;

K. Temporary uses;

L. Temporary structures;

M. Telecommunications facilities approved under Section 16.50.060.

(Ord. 462 § 1, 2011; Ord. 415 § 7.120.020, 2002)

16.58.030 Administration and approval process.

A. The applicant for a site development review proposal shall be the recorded owner of the property or an agent authorized in writing by the owner.

B. Applications for site development review shall be processed according to Chapter 16.78.

C. The Planning Commission shall approve, approve with conditions or deny any application for site development review.

(Ord. 415 § 7.120.030, 2002)

16.58.040 Phased development.

A. If requested, the Planning Commission may approve a time schedule for developing a site in phases, but in no case shall the total time period for all phases be greater than three years without reapplying for site development review.

B. In addition to the standards in Section 16.58.100, the following criteria shall be satisfied in order to approve a phased site development review proposal:

1. All underground utilities are constructed during the initial phase of the development and the remaining public facilities are constructed in conjunction with or prior to each phase.

2. The development and occupancy of any phase is not dependent on the use of temporary public facilities. A temporary public facility is any facility not constructed to the applicable city or zoning district standard.

3. The phased development shall not result in requiring the City or other property owners to construct public facilities that were required by an approved development proposal.

(Ord. 415 § 7.120.040, 2002)

16.58.050 Bonding and assurances.

A. On all projects where public improvements are required, the City may:

1. Require a bond in an amount equal to one hundred twenty five (125) percent or other adequate assurances as a condition of approval of the site development plan in order to ensure the completed project is in conformance with the approved plan;

2. Approve and release such bonds upon the completion of the project. A portion of a bond may be released as components of the project are completed;

3. Require a development agreement containing the conditions of approval to be signed by the developer and recorded with Marion County.

B. Landscaping shall be installed prior to issuance of occupancy permits, unless security equal to the cost of the landscaping as determined by the Planning Director is filed with the City, assuring such installation within six months after occupancy.

1. Security may consist of a performance bond payable to the City, cash, certified check or such other assurance of completion approved by the City; and

2. If the installation of the landscaping is not completed within the six-month period, the security may be used by the City to complete the installation.

(Ord. 415 § 7.120.050, 2002)

16.58.060 Major modification to approved plans or existing development.

A. The Planning Director shall determine that a major modification(s) will result if one or more of the following changes are proposed:

1. An increase of ten (10) percent or more in dwelling unit density, or lot coverage for residential development;

2. Any commercial or industrial remodel or expansion that exceeds 25% of the total square footage of the existing structure.

3. An increase in the height of the building(s) by more than twenty (20) percent or an increase to more than thirty-five (35) feet in height in zones where heights greater than thirty-five (35) percent may be permitted;

4. A change in the type and location of access ways and parking areas where off-site traffic would be affected;

5. Any new development, change of occupancy, or commercial or industrial remodel, that will intensify the use of the property by increasing the average daily vehicle trips ~~traffic~~ to the site, or on-site parking in accordance with Chapter 16.42 by more than ~~ten~~ twenty-five (~~10~~25) percent above the most traffic intensive use approved for the property. Applicant shall be required to submit to the Planning Director information demonstrating the development, change, or remodel shall not intensify the use of the property by more than ~~ten~~ twenty-five (~~10~~25) percent and is subject to Planning Director review and approval, Chapter 16.42, and the Institute of Transportation Engineers (ITE) Trip Generation Manual (latest edition)~~;~~. Increases of less than thirty (30) vehicle trips per day to a site shall be exempt.

6. A reduction of project amenities where specified in the approved site plan including open space, recreational facilities, screening, and/or landscaping provisions;

7. A modification to the conditions imposed at the time of site development review approval which are not the subject of subdivisions (1) through (7) of this subsection.

B. When a proposed modification to the site development plan is determined to be a major modification, the applicant shall submit a modified site development review application and receive Planning Commission approval prior to any issuance of building permits.

C. Modified site development review applications shall be noticed and processed in accordance with Chapter 16.78.

(Ord. 462 § 1, 2011; Ord. 415 § 7.120.020, 2002)

16.58.070 Minor modification(s) to approved plans or existing development.

A. Any modification which is not within the description of a major modification as provided in Section 16.58.060, may be considered a minor modification.

B. A minor modification shall be approved, approved with conditions, or denied following the Planning Director's review based on the finding that no code provisions will be violated; and the modification is not a major modification.

C. Minor modifications shall be processed and noticed in accordance with Chapter 16.78.

(Ord. 462 § 1, 2011; Ord. 415 § 7.120.060, 2002)

16.58.080 Application submission requirements.

A. All applications shall be made on forms provided by the City.

B. All applications shall include a narrative discussing how the proposal conforms to each of the applicable standards.

C. All applications shall include five copies of site development plans containing the information required in Section 16.58.090 and drawn to a standard engineering scale. One copy must be no larger than eleven (11) inches by seventeen (17) inches.

(Ord. 415 § 7.120.080, 2002)

16.58.090 Site development plans.

A. Required information may be combined on one map. Site development plan(s) shall include the following information, as appropriate:

1. A vicinity map showing the proposed site and surrounding properties;

2. The site size and its dimensions;

3. The location, dimensions and names of all existing and platted streets and other public ways and easements on the site and on adjoining properties;

4. The location, dimensions and names of all proposed streets or other public ways and easements on the site;

5. The location and dimension of all proposed:

a. Entrances and exits on the site,

b. Parking and traffic circulation areas,

c. Loading and services areas, where applicable,

d. Pedestrian and bicycle facilities,

e. Utilities;

6. The location, dimensions and setback distances of all:

a. Existing structures, improvements and utilities which are located on adjacent property within twenty-five (25) feet of the site and are permanent in nature, and

b. Proposed structures, improvements, and utilities on the site;

7. Contour lines at two-foot intervals for grades zero to ten (10) percent and five-foot intervals for grades over ten (10) percent for current site grades;

8. A grading plan that includes:

a. The identification and location of the benchmark and corresponding datum,

b. Location and extent to which grading will take place indicating contour lines, slope ratios, and slope stabilization proposals,

c. The location of drainage patterns and drainage courses;

9. The location of any floodplain areas (one hundred (100) year floodplain and floodway);

10. The location of any slopes in excess of twelve (12) percent;

11. The location of any unstable ground (areas subject to slumping, earth slides or movement);

12. The location of any areas having a high seasonal water table within twenty-four (24) inches of the surface for three or more weeks of the year and any wetlands;

13. The location of any areas having a severe soil erosion potential as defined by the soil conservation service;

14. The method for mitigating any adverse impacts upon wetland, riparian or wildfire habitat areas;

15. A landscaping plan including:

a. Location and height of fences, buffers and screening,

b. Location of terraces, decks, shelters, play areas, and common open spaces where applicable,

c. Location of mechanical equipment and garbage enclosures, and applicable screening

d. Location, type and size of plant materials, and

e. Soil conditions, and erosion control measures that will be used;

16. Elevation drawings of all sides of the development with landscaping shown as it will appear both at the time of planting and at maturity.

(Ord. 462 § 1, 2011; Ord. 415 § 7.120.090, 2002)

16.58.100 Approval standards.

The Planning Commission shall make a finding with respect to each of the following criteria when approving, approving with conditions, or denying an application**.** The criteria shall be utilized in reviewing plans, drawings, sketches and other documents required by this subchapter. These criteria are intended to provide a frame of reference for the applicant in the development of site and building plans as well as a method of review for the City. These criteria shall not be regarded as inflexible requirements. They are not intended to discourage creativity, invention and innovation. It shall be the applicant's responsibility to display to the City how the applicable criteria are being best met for the subject property.

A. Provisions of all applicable chapters;

B. Buildings shall be located to preserve topography and natural drainage and shall be located outside areas subject to ground slumping or sliding;

C. Privacy and noise:

1. Buildings shall be oriented in a manner which protects private spaces on adjoining residential properties from view and noise,

2. On-site uses which create noise, lights, or glare shall be buffered from adjoining residential uses;

D. Residential private outdoor areas:

1. Structures which include residential dwelling units shall provide private outdoor areas which are screened from view by adjoining units,

2. Private open space such as a patio or balcony shall be provided and shall be designed for the exclusive use of individual units and shall be at least forty-eight (48) square feet in size with a minimum width dimension of four feet, and

a. Balconies used for entrances or exits shall not be considered as open space except where such exits or entrances are for the sole use of the unit, and

b. Required open space may include roofed or enclosed structures such as a recreation center or covered picnic area,

3. Wherever possible, private outdoor open spaces should be oriented toward the sun;

E. Residential shared outdoor recreation areas:

1. In addition to the requirements of subsection D of this section, usable outdoor recreation space shall be provided in multifamily residential developments for the shared or common use of all the residents in the following amounts:

a. Studio up to and including two-bedroom units, two hundred (200) square feet per unit, and

b. Three or more bedroom units, three hundred (300) square feet per unit,

2. The required recreation space may be provided as follows:

a. It may be all outdoor space, or

b. It may be part outdoor space and part indoor space; for example, an outdoor tennis court, and indoor recreation room,

c. It may be all public or common space,

d. It may be part common space and part private; for example, it could be an outdoor tennis court, indoor recreation room and balconies on each unit, and

e. Where balconies are added to units, the balconies shall not be less than forty-eight (48) square feet,

f. Shared outdoor recreation space shall be readily observable for reasons of crime prevention and safety;

H. Demarcation of public, semipublic, and private spaces;

1. Structures and site improvements shall be designed so that public areas such as streets or public gathering places, semipublic areas and private outdoor areas are clearly defined in order to establish persons having a right to be in the space, in order to provide for crime prevention and to establish maintenance responsibility, and

2. These areas may be defined by a deck, patio, low wall, hedge or draping vine, a trellis or arbor, a change in level or landscaping;

I. Crime prevention and safety:

1. In residential developments, interior laundry and service areas shall be located in a way that they can be observed by others,

2. Mail boxes shall be located in lighted areas having vehicular or pedestrian traffic,

3. Exterior lighting levels shall be selected and the angles shall be oriented towards areas vulnerable to crime, and

4. Light fixtures shall be provided in areas having heavy pedestrian or vehicular traffic and in potentially dangerous areas such as parking lots, stairs, ramps and abrupt grade changes. Fixtures shall be placed at a height so that light patterns overlap at a height of seven feet which is sufficient to illuminate a person;

J. Access and circulation:

1. The number of allowed access points for a development shall be as determined by the City Engineer in accordance with standard engineering practices for City rights-of-way, as determined by Marion County for county rights-of-way, and as determined by the Oregon Department of Transportation for access to Highway 99E,

2. All circulation patterns within a development shall be designed to accommodate emergency vehicles;

K. Public transit:

1. Provisions within the plan shall be included for providing for transit if the development proposal is adjacent to existing or proposed transit route.

2. The requirements for transit facilities shall be based on:

a. The location of other transit facilities in the area,

b. The size and type of the proposal.

3. The following facilities may be required:

a. Bus stop shelters,

b. Turnouts for buses, and

c. Connecting paths to the shelters;

L. All parking and loading areas shall be designed in accordance with the requirements set forth in Chapter 16.42;

M. All landscaping shall be designed in accordance with the requirements set forth in Chapter 16.38;

N. All public improvements shall be designed in accordance with the requirements of Chapter 16.34;

O. All facilities for the handicapped shall be designed in accordance with the requirements set forth in the ADA requirements;

P. All of the provisions and regulations of the underlying zone shall apply; and

Q. All properties located in the historic commercial or historic residential overlay shall be designed in accordance with the requirements set forth in Title 17 of the Aurora Municipal Code. ~~A certificate of appropriateness approved by the historic review board shall satisfy this criteria.~~

(Ord. 462 § 1, 2011; Ord. 415 § 7.120.020, 2002)

Chapter 16.60

CONDITIONAL USES

Sections:

16.60.010 Purpose.
16.60.020 Administration and approval process.
16.60.030 Phased development or existing development.
16.60.040 Approval standards and conditions.
16.60.050 Major modification to approved plans or existing development.
16.60.060 Minor modification(s) to approved plans or existing development.
16.60.070 Application submission requirements.
16.60.080 Site development plans.
16.60.090 Revocation of a conditional use permit.

16.60.010 Purpose.

The purpose of this chapter is to provide standards and procedures under which conditional use may be permitted, enlarged or altered if the site is appropriate and if other conditions can be met.
(Ord. 415 § 7.130.010, 2002)

16.60.020 Administration and approval process.

Action on the application shall be in accordance with Chapter 16.76.
(Ord. 415 § 7.130.020, 2002)

16.60.030 Phased development or existing development.

A. The P~~p~~lanning C~~c~~ommission shall approve a time schedule for developing a site in phases but in no case shall the total time period for all phases be greater than three years without reapplying for conditional use review.

B. In addition to Section 16.60.040, the following criteria shall be satisfied for approving a phased conditional use:

1. The public facilities shall be constructed in conjunction with or prior to each phase.

2. The development and occupancy of any phase shall not be dependent on the use of temporary public facilities. A temporary public facility is any facility not constructed to the applicable city or district standard.

3. The phased development shall not result in requiring the city or other property owners to construct public facilities that were required by approved development proposal.
(Ord. 415 § 7.130.030, 2002)

16.60.040 Approval standards and conditions.

A. The P~~p~~lanning C~~c~~ommission shall approve, approve with conditions, or deny an application for a conditional use based on findings of fact with respect to each of the following criteria:

1. The characteristics of the site are suitable for the proposed use considering size, shape, location, topography and natural features;

2. All required public facilities have adequate capacity to serve the proposal and are improved to the standards in Chapter 16.34;

3. The requirements of the zoning district are met;

4. The use is compatible with surrounding properties or will be made compatible by imposing conditions;

5. All parking and loading areas are designed and improved in accordance with the requirements set forth in Chapter 16.42;

6. All landscaping is designed and improved in accordance with the requirements set forth in Chapter 16.38;

7. All public improvements are designed and constructed in accordance with the requirements set forth in Chapter 16.34;

8. All facilities for the handicapped are designed in accordance with the requirements set forth in the ADA requirements;

9. The provisions of all applicable chapters of this title are satisfied; and

10. Properties located in the historic commercial or historic residential overlay comply with the requirements set forth in Title 17 of the Aurora Municipal Code. ~~A certificate of appropriateness approved by the historic review board shall satisfy this requirement.~~

B. In reviewing an application for a conditional use, the commission shall consider the most appropriate use of the land and the general welfare of the people residing or working in the neighborhood. In addition to the general requirements of this title, the commission may impose any other reasonable conditions deemed necessary. Such conditions may include, but are not limited to:

1. Limiting the manner in which the use is to be conducted, including restrictions on the hours of operation;

2. Establishing additional setbacks or open areas;

3. Designating the size, number, location and nature of vehicle access points;

4. Limiting or otherwise designating the number, size, location, height and lighting of signs;

5. Requiring fences, sight-obscuring hedges or other screening and landscaping to protect adjacent properties;

6. Protecting and preserving existing soils, vegetation, wildlife habitat or other natural resources.

(Ord. 415 § 7.130.040, 2002)

16.60.050 Major modification to approved plans or existing development.

A. The P~~p~~lanning D~~d~~irector shall determine that a major modification(s) will result if one or more of the following changes are proposed:

1. An increase of ten (10) percent or more in dwelling unit density, or lot coverage for residential development;

2. A change that requires additional on-site parking in accordance with Chapter 16.42;

3. A change in the use as defined by the Uniform Building Code;

4. An increase in the height of the building(s) by more than twenty (20) percent or an increase to more than thirty-five (35) feet in height for zones where heights greater than thirty-five (35) feet may be permitted;

5. A change in the type and location of access ways and parking areas where off-site traffic would be affected;

6. An increase in vehicular traffic to and from the site expected to exceed twenty (20) vehicles per day;

7. A reduction of project amenities where specified in the approved site plan including open space, recreational facilities, screening, and/or landscaping provisions;

8. A modification to the conditions imposed at the time of conditional use approval which are not the subject of subdivisions (1) through (9) of this subsection.

B. When a proposed modification to the site development plan is determined to be a major modification, the applicant shall submit a modified conditional use application and receive P~~p~~lanning C~~c~~ommission approval prior to any issuance of building permits.

C. Modified site development review applications shall be noticed and processed in accordance with Chapter 16.76.
(Ord. 415 § 7.130.050, 2002)

16.60.060 Minor modification(s) to approved plans or existing development.

A. Any modification which is not within the description of a major modification as provided in Section 16.60.050, may be considered a minor modification.

B. A minor modification shall be approved, approved with conditions or denied following the P~~p~~lanning D~~d~~irector's review based on the finding that no ordinance provisions will be violated and the modification is not a major modification.
(Ord. 415 § 7.130.060, 2002)

16.60.070 Application submission requirements.

A. All applications shall be made on forms provided by the city.

B. All applications shall include a narrative discussing how the proposal conforms to the standards in Section 16.60.040.

C. All applications shall include three copies of site development plans containing the information required in Section 16.60.080 and drawn to a standard engineering scale. One copy must be no larger than eleven (11) inches by seventeen (17) inches.
(Ord. 415 § 7.130.070, 2002)

16.60.080 Site development plans.

Required information may be combined on one map. Site development plan(s) shall include the following information, as appropriate:

A. A vicinity map showing the proposed site and surrounding properties;

B. The site size and its dimensions;

C. The location, dimensions and names of all existing and platted streets and other public ways and easements on the site and on adjoining properties and all proposed streets and easements on the site;

D. The location and dimension of all proposed:

1. Entrances and exits on the site,
2. Parking and traffic circulation areas,
3. Loading and services areas, where applicable,
4. Pedestrian and bicycle facilities,
5. Utilities;

E. The location, dimensions and setback distances of all:

1. Existing structures, improvements and utilities which are located on adjacent property within twenty-five (25) feet of the site and are permanent in nature, and
2. Proposed structures, improvements, and utilities on the site;

F. Contour lines at two-foot intervals for grades zero to ten (10) percent and five-foot intervals for grades over ten (10) percent for current site grades;

G. A grading plan that includes:

1. The identification and location of the benchmark and corresponding datum,
2. Location and extent to which grading will take place indicating contour lines, slope ratios, and slope stabilization proposals,
3. The location of drainage patterns and drainage courses;

H. The location of any floodplain areas (one hundred (100) year floodplain and floodway);

I. The location of any slopes in excess of twelve (12) percent and any areas subject to slumping, earth slides or movement;

J. The location of any areas having a high seasonal water table within twenty-four (24) inches of the surface for three or more weeks of the year, and the location of any wetlands;

K. The location of any areas having a severe soil erosion potential as defined by the soil conservation service, the location of any areas having severe weak foundation soils; and the method for mitigating any adverse impacts on wetlands;

L. A landscaping plan including:

1. Location and height of fences, buffers and screening,

2. Location of terraces, decks, shelters, play areas, and common open spaces where applicable,

3. Location, type and size of plant materials, and

4. Soil conditions, and erosion control measures that will be used.

(Ord. 415 § 7.130.080, 2002)

16.60.090 Revocation of a conditional use permit.

The commission, on its own motion following a public hearing conducted pursuant to Chapter 16.76, may revoke any conditional use permit for one of the following reasons:

A. Noncompliance with the conditions placed upon it;

B. The approval was obtained by fraud or by misrepresentation;

C. The use for which such approval was granted has ceased to exist or has been suspended for more than two years; or

D. The permit granted is being exercised in violation of a state law or in a manner that constitutes a public nuisance.

(Ord. 415 § 7.130.090, 2002)

Chapter 16.62

NONCONFORMING USES

Sections:

16.62.010 Continuation of nonconforming uses and structures.
16.62.020 Vested rights.
16.62.030 Alteration of nonconforming use or structure.
16.62.040 Restoration of nonconforming uses.
16.62.050 Discontinuance.
16.62.060 Criteria to grant or deny.
16.62.070 Compliance with state and local codes.

16.62.010 Continuation of nonconforming uses and structures.

Except as otherwise provided, the use of a building, structure, premises or land lawfully existing at the time of the effective date of the ordinance codified in this title or at the time of a change in the official zoning maps may be continued and maintained in reasonable repair, although such use does not conform with the provisions of this title.
(Ord. 415 § 7.135.010, 2002)

16.62.020 Vested rights.

Nothing in this title shall require any change in the plans, construction, alteration or designated use of a structure on which construction has physically, lawfully and substantially commenced prior to the adoption of the ordinance codified in this title, provided the structure is completed within two years from the issuance of the development permit.
(Ord. 415 § 7.135.020, 2002)

16.62.030 Alteration of nonconforming use or structure.

As used in this section, alteration of a nonconforming use or structure includes a change in use of structure of no greater adverse impact to the neighborhood. Expansion of nonconforming structures may be allowed by the P~~p~~lanning C~~c~~ommission subject to the following:

A. The applicant shall demonstrate that such expansion will not result in any greater adverse impact upon other property than is currently the case;

B. There shall be no increase in any conformity with dimensional requirements as a result of the expansion;

C. Only one such expansion shall be permitted;

D. No expansion shall result in a structure with a footprint greater than one hundred fifty (150) percent of the original structure;

E. The nonconformity shall not be expanded onto any property which is not now part of one contiguous tract in common ownership, or which was not part of such a contiguous tract in common ownership on December 27, 1988;

F. In allowing such an expansion, the P~~p~~lanning C~~c~~ommission may impose all such conditions and requirements as may be reasonably necessary to assure that there shall be no increase in the adverse impact of such nonconforming use upon other property within the district;

G. Nothing in this title shall be deemed to preclude the strengthening or restoring to a safe condition any building or part thereof found to be unsafe by any official charged with protecting the public or to prohibit ordinance repairs provided that the volume of the building and the land area occupied by such building remain the same as that which existed on December 27, 1988.

(Ord. 462 § 1, 2011; Ord. 415 § 7.135.030, 2002)

16.62.040 Restoration of nonconforming uses.

If a nonconforming structure or a structure containing a nonconforming use is destroyed by any cause to an extent greater than sixty (60) percent of the replacement value using new materials, a future structure or use on the property shall conform to the provisions of this title except that single-family residential uses may be rebuilt by right, provided such reconstruction is completed within two years of its destruction.

(Ord. 415 § 7.135.040, 2002)

16.62.050 Discontinuance.

A. Except for single-family residential uses which shall be continued by right, if a nonconforming use involving a structure is discontinued from active use for a period of one year, further use of the property or structure shall be a conforming use, except as provided in subsection C of this section.

B. If a nonconforming use is discontinued for a period of one year, further use of the property shall be a conforming use.

C. A previous nonconforming use may be reinstated pursuant to the same standards and procedures as required for allowance of a conditional use and the criteria in Section 16.62.060 upon application filed within three years following the last date such nonconforming use was lawfully in operation.

D. If a building was unoccupied on December 27, 1988, the last use of evidence shall be considered its use of record and the one-year period of discontinuance shall commence on December 27, 1988.

(Ord. 415 § 7.135.050, 2002)

16.62.060 Criteria to grant or deny.

When reviewing any request to restore a nonconforming use, in addition to the other applicable criteria, it shall be determined that all of the following are found to exist:

A. The nature and character of the proposed use are substantially the same as that for which the structure was originally design;

B. There is no material difference in the quality, character, intensity or degree of use;

C. The proposed use will not prove materially adverse to surrounding properties.

(Ord. 415 § 7.135.060, 2002)

16.62.070 Compliance with state and local codes.

The granting of any such approval shall not be deemed as providing any exception to all other state and local codes such as, but not limited to, fire and life safety, building or comprehensive plan implementing ordinances.

(Ord. 415 § 7.135.070, 2002)

Chapter 16.64

VARIANCES

Sections:

16.64.010 Purpose.
16.64.020 Administration and approval process.
16.64.030 Criteria for granting a variance.
16.64.040 Application submission requirements.

16.64.010 Purpose.

The purpose of this chapter is to provide standards for the granting of variances from the applicable zoning requirements of this title where it can be shown that, owing to special and unusual circumstances related to a specific piece of the land, the literal interpretation of the provisions of the applicable zone would cause an undue or unnecessary hardship, except that no use variances shall be granted.
(Ord. 415 § 7.140.010, 2002)

16.64.020 Administration and approval process.

A. The application shall be filed and processed in accordance with Chapter 16.76. Following a public hearing, the commission may authorize variances from the requirements of this title where it can be shown that, owing to special and unusual circumstances related to a specific piece of property, the literal interpretation of this title would cause an undue or unnecessary hardship.

B. No variance shall be granted to allow the use of property for purposes not authorized within the zone in which the proposed use would be located.

C. In granting a variance, the commission may attach conditions which it finds necessary to protect the interests of the surrounding property owners or neighborhood and to otherwise achieve the purposes of this title. The P~~p~~lanning C~~c~~ommission shall apply the standards set forth in Section 16.64.030 when reviewing an application for a variance.
(Ord. 415 § 7.140.020, 2002)

16.64.030 Criteria for granting a variance.

The commission may grant a variance only when the applicant has shown that all of the following conditions exist:

A. The proposed variance will not be materially detrimental to the purposes of this title, be in conflict with the policies of the comprehensive plan, to any other applicable policies and standards, and to other properties in the same zoning district or vicinity.

B. Special conditions exist which are peculiar to the land or structure involved and are not applicable to lands and structures in the same zone and over which the applicant has no control.

C. The use proposed will be the same as permitted under this title and city standards will be maintained to the greatest extent that is reasonably possible while permitting some economic use of the land.

D. Existing physical and natural systems, such as but not limited to traffic, drainage, dramatic land forms, or parks will not be adversely affected any more than would occur if the development were located as specified in this title.

E. The variance granted shall be the minimum necessary to make possible a reasonable use of the land and structures.

F. The special conditions which are peculiar to the land or structure involved were not caused or created by the applicant, current property owner, or a previous property owners.

G. For variances to height requirements, six inches shall be added to the required setbacks for the front, side and rear yards, for every foot of height allowed by the commission beyond the established limit.
(Ord. 455 § 12, 2010; Ord. 415 § 7.140.040, 2002)

16.64.040 Application submission requirements.

A. All applications shall be made on forms provided by the city and shall be accompanied by:

1. A narrative which explains how the proposal conforms to Section 16.64.030;

2. A copy of all existing and proposed restrictions or covenants;

3. A vicinity map showing the proposed site and surrounding properties;

4. Three copies of site plan containing the information drawn to a standard engineering scale. One copy must be no larger than eleven (11) inches by seventeen (17) inches. The site plan shall show the following, as applicable:

a. The site size and its dimensions,

b. The location, dimensions and names of all existing and platted streets and other public ways and easements on the site and on adjoining properties,

c. The location, dimensions and names of all proposed streets or other public ways and easements on the site,

d. The location and dimension of all proposed entrances and exits on the site, parking and traffic circulation areas, loading and services areas, pedestrian and bicycle facilities, and utilities,

e. The location, dimensions and setback distances of all existing structures, improvements and utilities which are located on adjacent property within twenty-five (25) feet of the site and are permanent in nature, and

f. The location, dimensions and setback distances of all proposed structures, improvements, and utilities on the site;

B. In the case of a request for a variance to the building height provisions, the following additional information is required:

1. An elevation drawing of the structure and the proposed variance; and

2. A drawing(s) to scale showing the impact on adjoining properties.
(Ord. 415 § 7.140.050, 2002)

Chapter 16.66

ANNEXATIONS

Sections:

16.66.010 Purpose.
16.66.020 Policy.
16.66.030 Administration and approval process.
16.66.040 Approval standards.
16.66.050 Application submission requirements.
16.66.060 Annexation initiated by city.
16.66.070 Zoning upon annexation.
16.66.080 Service extensions.

16.66.010 Purpose.

The purpose of this chapter is to enact policies relating to annexation and petitions for annexation of property to the city, to determine the process and criteria by which annexations will be reviewed and approved, to provide for city review of all annexation requests for a determination of the availability of facilities and services as related to the proposal, and maximize citizen involvement in the annexation review process.

(Ord. 415 § 7.145.010, 2002)

16.66.020 Policy.

Annexations shall be considered on a case-by-case basis, taking into account the goals and policies in the Aurora comprehensive plan, long range costs and benefits of annexation, statewide planning goals, this title and other ordinances of the city and the policies and regulations of affected agencies' jurisdictions and special districts.

(Ord. 415 § 7.145.020, 2002)

16.66.030 Administration and approval process.

A. The approval process for annexations to the city shall be as provided in ORS 222.

B. The application for an annexation required by this chapter shall be filed with the city, including required fees on forms provided by the city. Upon receipt of a completed request for annexation, the P~~p~~lanning D~~d~~irector shall prepare a staff report and recommendation describing compliance with the policies and criteria required by this and other relevant ordinances. The P~~p~~lanning C~~c~~ommission shall hold a public hearing in accordance with the provisions of Chapter 16.76 and shall make a recommendation to the C~~c~~ity C~~c~~ouncil. The C~~c~~ity C~~c~~ouncil shall hold a public hearing in accordance with the provisions of Chapter 16.76. Following the public hearing, the C~~c~~ity C~~c~~ouncil shall make a final decision on the annexation request. The final action on a proposed annexation shall be by ordinance. If no election is required, the annexation shall become effective thirty (30) days after the date of adoption by the C~~c~~ity C~~c~~ouncil.

C. When the C~~c~~ity C~~c~~ouncil elects to hold an election, pursuant to ORS 222, annexations approved by the C~~c~~ouncil shall be placed on the ballot at the next available primary or general election. If an election is required, the annexation ordinance shall be effective on the date the election is certified.

(Ord. 415 § 7.145.030, 2002)

16.66.040 Approval standards.

The decision to approve, approve with modification or deny, shall be based on the following criteria:

A. There is sufficient public facilities and services capacity to serve all net buildable lands inside the city at the maximum allowed density, plus sufficient additional capacity to adequately serve the

proposed annexation area at its maximum allowed density;

B. The following three tiered priority list shall establish the required order of priority for annexation, except as provided in subsection E of this section:

1. Land which is immediately adjacent to the current city limits, and for which there is sewer and water service immediately available. Residential designated land which is immediately adjacent to the current city limits and for which there is sewer and water service immediately available must also comply with the sixty (60) percent of net buildable land and eighty (80) percent of maximum density requirements described in subsection (B)(3) of this section,

2. Commercial and industrial designated land which is located less than two hundred fifty (250) feet from the current city limits, and for which sewer and water service can be provided by minor line extensions. "Minor line extensions" shall be as defined by the city engineer,

3. Residential designated land which is located less than two hundred fifty (250) feet from the current city limits and for which sewer and water service can be provided by minor line extensions when at least sixty (60) percent of the net buildable land for the applicable zoning district within the current city limits has actually been developed, or is committed to development; and that such development has occurred at an average of not less than the following minimums in the zone, which represents approximately eighty (80) percent of maximum density:

a. R-1 3.5 units per acre*

b. R-2 5.2 units per acre*

* For properties included in the historic residential overlay, this requirement shall be satisfied if developed or committed to development at a density of 2.6 units per acre. Committed to development means there is a valid approved land development permit, for which approval has not expired under the two-year limit;

C. The application complies with the comprehensive plan and all other applicable city policies and ordinances;

D. The application complies with the applicable sections of ORS 222;

E. On a case-by-case basis and without setting precedents for other annexation actions, the C~~c~~ity C~~c~~ouncil may approve a proposed annexation that meets the criterion in subsections A, C, and D of this section, but does not meet the criterion in subsection B of this section, based on findings that all of the following criteria are satisfied:

1. A significant public need exists, within the city limits at the time of the proposed annexation, in at least one of the following:

a. Efficient provision of municipal utility services,

b. Effective multi-modal transportation access and circulation patterns, or

c. Logical and economic provision of governmental services limited to police, fire, public works, schools, or parks and recreation facilities, and

2. Approving the proposed annexation shall address and satisfy the above identified public need,

3. Under this exception, the identified public need is not required to be the exclusive purpose of the proposed annexation.

(Ord. 419 § 6, 2002: Ord. 415 § 7.145.040, 2002)

16.66.050 Application submission requirements.

A. All applications shall be made on forms provided by the city and shall be accompanied by:

1. A map to a engineering scale of the area to be annexed which includes the surrounding area;

2. A map of the area to be annexed including adjacent city territory as shown on the Marion County assessor map;

3. A conceptual development plan which includes:

a. The type of intensities (density) of the proposed land use,

b. Transportation corridors,

c. Significant natural features, and

d. Adjoining land uses;

4. A narrative which explains how the annexation conforms to the approval standards;

5. The applicable county assessor map;

6. A metes and bounds description of the annexation area including a map;

7. A narrative which discusses the availability, capacity and status of existing water, sewer, drainage, transportation, park, police and fire service, and school facilities and how the increased demand for such facilities to be generated by any proposed development within the annexation area may be satisfied.

B. Three copies of maps, conceptual development plan and required drawings are required. One copy shall not exceed eleven (11) inches by seventeen (17) inches. Sheet size shall not exceed eighteen (18) inches by twenty-four (24) inches. The scale of the required drawings shall be an engineering scale.

C. The required information may be combined on one map.

(Ord. 415 § 7.145.050, 2002)

16.66.060 Annexation initiated by city.

The Ceity Ceouncil may initiate an annexation on its own motion. In that event, the standards and procedures of this chapter, including zone change procedures, shall apply as if the annexation was initiated by a property owner, except that no filing fee shall be required.

(Ord. 415 § 7.145.060, 2002)

16.66.070 Zoning upon annexation.

Upon annexation, the area annexed shall be automatically zoned to the corresponding land use zoning classification as shown in the table below. The zoning designation shown on the table below is the city's zoning district which most closely implements the city's comprehensive plan map designation.

Comprehensive Plan	Zoning Classification
R-1	R-1, Low Density Residential
R-2	R-2, Moderate Density Residential
C	Commercial
I	Industrial

(Ord. 415 § 7.145.070, 2002)

16.66.080 Service extensions.

Property owners in the annexed area must bear the costs associated with extension of sewer and water lines and roads except for major facilities such as a sewer pump station or major water main needed to facilitate the functioning of the city wide system or to accommodate for substantial future growth. At the discretion of the Ceity Ceouncil, the Ceity may assess property owners in the annexed area for a portion of the costs associated with above major facilities.

(Ord. 415 § 7.145.080, 2002)

Chapter 16.68

PROPERTY LINE ADJUSTMENTS

Sections:

16.68.010 Purpose.
16.68.020 Administration and approval process for property line adjustments.
16.68.030 Tentative plan application submission requirements.
16.68.040 Final property line adjustment application submission requirements.
16.68.050 Filing and recording.
16.68.060 Administration and approval process for re-establishment of property lines for tax segregation purposes.
16.68.070 Re-establishment application submission requirements.

RE-ESTABLISHMENTS FOR TAX SEGREGATION

16.68.080 Purpose
16.68.090 Administration and approval process for property line adjustments.
16.68.100 Tentative Plan application submission requirements.
16.68.110 Final property line adjustment application submission requirements.
16.68.120 Filing and recording
16.68.130 Administration and approval process for re-establishment of property line for tax segregation purposes.
16.68.140 Re-establishment application submission requirements.

16.68.010 Purpose.

The purpose of this chapter is to provide rules, regulations and standards governing approval of property line adjustments and re-establishment of property lines for lots of record for tax segregation purposes. A property line adjustment is any adjustment to a property line by the relocation of a common boundary where an additional parcel of land is not created.
(Ord. 415 § 7.150.010, 2002)

16.68.020 Administration and approval process for property line adjustments.

A. The applicant for property line adjustment proposal shall be the recorded owner of the property or an agent authorized in writing by the owner.

B. The P~~p~~lanning D~~d~~irector shall approve, approve with conditions or deny a request for a property line adjustment or re-establishment in writing based on findings that the criteria stated are satisfied as follows (Ord 432* § 1, 2004):

1. An additional parcel is not created by the property line adjustment,
(Ord. 432 § 1, 2004; Ord. 435a § 1, 2004)

2. Existing structure(s) and improvements on the lot or parcel reduced by the property line adjustment shall satisfy the requirements of the Aurora Municipal Code, and no reduction in improvements required in the site development or conditional use processes shall result: (Ord. 432* § 1, 2004; Ord. 435a § 1, 2004)

3. The resulting parcels are in conformity with the requirements of the zoning district, except where an existing lot of record does not satisfy the minimum square footage, minimum lot width or minimum lot depth standards for the zone, a property line adjustment may be permitted provided all

other criteria are satisfied and the adjusted lots do not increase the non-conformance. (Ord. 432* § 1, 2004; Ord. 435a § 1, 2004)

4. A property line adjustment is not considered a development action for purposes of determining whether floodplain, greenway or right-of-way dedication may be required. (Ord. 432* § 1, 2004; Ord. 435a § 1, 2004)

C. The Pplanning Ddirector shall mail notice of the tentative plan property line adjustment approval to the owners of the property involved in the proposal and to the owners of abutting properties.

D. The decision of the Pplanning Ddirector may be appealed to the Pplanning Ccommission.

(Ord. 435 § 1, 2004; Ord 415 § 7.150.020, 2002)

16.68.030 Tentative plan application submission requirements.

A. All applications shall be made on forms provided by the city and shall be accompanied by copies of the tentative property line adjustment map and necessary data or narrative.

B. The tentative property line adjustment map and necessary data or narrative shall include the following:

1. Name of the owner(s) of the subject parcel;

2. Name of the owner(s) authorized agent (if applicable);

3. The map scale, north arrow and date;

4. Sufficient description to define the location and boundaries of the proposed area to be adjusted;

5. The scale for the tentative property line adjustment map shall be an engineering scale sufficient to show the details of the plan and related data;

6. The location, width and names of streets or other public ways and easements within and adjacent to the proposed property line adjustment;

7. The location of all permanent buildings on and within twenty-five (25) feet of all affected property lines;

8. The location and width of all water courses;

9. All slopes greater than twelve (12) percent;

10. The location of existing utilities and utility easements;

11. Any deed restrictions that apply to the existing lot;

12. Legal descriptions for existing parcels; and

13. The applicable county assessor map.

C. The tentative property line adjustment map shall be as accurate as possible to ensure proper review by affected agencies.

D. Within thirty (30) days of receipt of an application, the Pplanning Ddirector shall review it for compliance with the requirements for submittal and notify the applicant if the application is found to be incomplete.

E. Upon acceptance of a complete application, the Pplanning Ddirector shall transmit copies of the tentative property line adjustment map to the city engineer and public works as well as other potentially affected agencies where necessary.

F. The Pplanning Ddirector shall review the proposal for compliance with the provisions of this title and coordinate the review conducted by affected agencies and applicable districts for compliance with applicable regulations. If the Pplanning Ddirector believes that existing utilities may be affected by the proposed adjustment, the Pplanning Ddirector may defer making a decision on the application until the affected service providing agencies have been given an opportunity to review and comment upon the proposal. In addition, an affected agency

may request an amended decision within ten (10) days of the issuance of a decision for which comments were not requested, if the agency finds that utilities may be affected by the proposed adjustment.

G. The Pplanning Ddirector shall review the proposed property line adjustment for compliance with the provisions of this title, and shall issue a decision to owners of the involved parcels, abutting property owners, and affected service providing agencies with regard to the compliance of the application with respect to all applicable approval criteria and including any conditions of approval to be completed prior to approval of the final property line adjustment map.
(Ord. 415 § 7.150.030, 2002)

16.68.040 Final property line adjustment application submission requirements.

A. All final applications for property line adjustments shall be on forms provided by the city and shall be accompanied by a copy of the final property line adjustment map prepared by a land surveyor licensed to practice in Oregon, and necessary data or narrative.

B. The property line adjustment map and data or narrative shall be drawn to the minimum standards set forth by the Oregon Revised Statutes (ORS 92.050) and by Marion County and shall include the following:

1. The final property line adjustment map must be eighteen (18) inches by twenty-four (24) inches and may be on vellum or mylar;

2. The scale of the map shall be an engineering scale approved by the county surveyor;

3. Name of the owner(s) of the subject parcel;

4. Name of the owner(s) authorized agent (if applicable);

5. Name, address and phone number of the land surveyor;

6. Dimensions and legal descriptions of the adjusted parcels;

7. Boundary lines and names of adjacent partitions and subdivisions, and tract lines abutting the site;

8. The locations, width and names of streets or other public ways and easements within and adjacent to the proposed partition.

C. The Pplanning Ddirector shall approval the final property line adjustment map based on findings that:

1. The final property line adjustment map substantially conforms to the approved tentative property line adjustment map; and

2. All conditions of approval for the tentative property line adjustment have been satisfied.
(Ord. 415 § 7.150.040, 2002)

16.68.050 Filing and recording final property lien adjustment map. Ord. 435a § 2, 2004)

A. Within ten (10) days of the city review and approval of the final property line adjustment map, the applicant shall submit the final property line adjustment map to the county for recording.

B. Within fifteen (15) days of recording with the county, the applicant shall submit to the city a full-size plain paper copy of the recorded property line adjustment map. No building permits shall be issued until the city has received this copy.
(Ord. 432* § 2, 2004; Ord. 415 § 7.150.050, 2002)

16.68.060 Administration and approval process for re-establishment of property lines for tax segregation purposes.

A. The applicant shall be the recorded owner of the property or an agent authorized in writing by the owner.

B. The P~~p~~lanning D~~d~~irector shall approve, approve with conditions or deny a request for a property line re-establishment in writing based on findings that the criteria stated are satisfied as follows:

1. The lot(s) exist as a legal lot(s) of record;

2. An additional lot or parcel is not created by the property line re-establishment;

3. No amendments are made to previously created legal lot(s) of record;

4. The applicant demonstrates that the lot is buildable and that such construction meets the setback requirements for the zone.

C. The P~~p~~lanning D~~d~~irector shall mail notice of the approval to the owner of the property involved in the proposal.

D. The decision of the P~~p~~lanning D~~d~~irector may be appealed to the P~~p~~lanning C~~c~~ommission.

(Ord. 415 § 7.150.060, 2002)

16.68.070 Re-establishment application submission requirements.

A. All applications shall be made on forms provided by the City and shall be accompanied by a copy of the Marion County tax segregation/aggregation form, documentation of the legal creation of the lot and a drawing complying with subsection B below (Ord. 432* § 3, 2004; Ord. 435a § 1, 2004).

B. The drawing shall include the following:

1. Name of the owner(s) of the subject parcel;

2. Name of the owner(s) authorized agent (if applicable);

3. The map scale, north arrow and date;

4. Sufficient description to define the location and boundaries of the lot lines being re-established;

5. The scale shall be an engineering scale sufficient to show the details of the plan and related data;

6. The location, width and names of streets or other public ways and easements within and adjacent to the property;

7. The location of all permanent buildings on and within twenty-five (25) feet of all affected property lines;

8. The location and width of all water courses;

9. All slopes greater than twelve (12) percent;

10. The location of existing utilities and utility easements;

11. Any deed restrictions that apply to the existing lot;

12. Legal descriptions for existing lot;

13. The applicable county assessor map.

C. The drawing shall be as accurate as possible to ensure proper review by affected agencies.

D. Within thirty (30) days of receipt of an application, the P~~p~~lanning D~~d~~irector shall review it for compliance with the requirements for submittal and notify the applicant if the application is found to be incomplete.

E. Upon acceptance of a complete application, the P~~p~~lanning D~~d~~irector shall transmit copies of the drawing to the city engineer and public works as well as other potentially affected agencies where necessary.

F. The P~~p~~lanning D~~d~~irector shall review the proposal for compliance with the provisions of this title and coordinate the

review conducted by affected agencies and applicable districts for compliance with applicable regulations. If the Pplanning Ddirector believes that existing utilities may be affected by the proposal, the Pplanning Ddirector may defer making a decision on the application until the affected service providing agencies have been given an opportunity to review and comment upon the proposal. In addition, an affected agency may request an amended decision within ten (10) days of the issuance of a decision for which comments were not requested, if the agency finds that utilities may be affected by the proposal.

G. The Pplanning Ddirector shall review the application for compliance with the provisions of this title, and shall issue a decision to owners of the property and affected service providing agencies with regard to the compliance of the application with respect to all applicable approval criteria and including any conditions of approval to be completed prior to approval of the re-establishment. (Ord. 432* § 3, 2004; Ord. 415 § 7.150.070, 2002)

RE-ESTABLISHMENTS FOR TAX SEGREGATION

16.68.080 Purpose

The purpose of this chapter is to provide rules, regulations and standards governing approval of property line adjustments and re-establishment of property lines for lots of record for tax segregation purposes. A property line adjustment is any adjustment to a property lien by the relocation of a common boundary where an additional parcel of land is not created. (Ord. 435a 1, 2004)

16.68.080 Filing and recording property line re-establishments

A. Within ten days of city review and approval of the property line re-establishment, the applicant shall submit the Marion County Tax segregation/aggregation form to the County for processing.

B. Prior to issuance of building permits, the applicant shall submit proof of Marion County's approval of the re-establishment of the tax lot to the city. (Ord. 432* § 4, 2004; Ord. 435a § 1, 2004)

16.68.090 Administration and approval process for property line adjustments.

A. The applicant for property line adjustment proposal shall be the recorded owner of the property or an agent authorized in writing by the owner.

B. The Planning Director shall approve, approve with conditions or deny a request for property line adjustment or re-establishment in writing based on findings that the criteria stated are satisfied as follows:

1. An existing parcel is not created by the property line adjustment, and the existing parcel as reduced in size by the adjustment is not reduced below the minimum lot size established by the zoning district;

2. By reducing the lot size, the lot or structure(s) on the lot will not be in violation of the site development or zoning district regulations for that district; and

3. The resulting parcels are in conformity with the requirements of the zoning district.

4. A property line adjustment is not considered a development action for purposes of determining whether floodplain, greenway or right-of-way dedication may be required.

C. The Planning Director shall mail notice of the tentative plan property line adjustment approval to the owners of the property involved in the proposal and to the owners of abutting properties.

D. The decision of the Planning Director may be appealed to the P~~p~~lanning C~~c~~ommission.

(Ord. 435 § 1, 2004)

16.68.100 Tentative Plan application submission requirements

A. All applications shall be made on forms provided by the City and shall be accompanied by copies of the tentative property line adjustment map and necessary data or narrative.

B. The tentative property line adjustment map and necessary data or narrative shall include the following:

1. Name of the owner(s) of the subject parcel,

2. Name of the owner(s) authorized agent (if applicable), and

3. The map scale, north arrow and date;

4. Sufficient description to define the location and boundaries of the proposed area to be adjusted;

5. The scale for the tentative property line adjustment map shall be an engineering scale sufficient to show the details of the plan and related data;

6. The location, width and names of streets or other public ways and easements within and adjacent to the proposed property line adjustment;

7. The location of all permanent buildings on and within twenty-five feet of all affected property lines,

8. The location and width of all water courses,

9. All slopes greater than twelve percent, and

10. The location of existing utilities and utility easements;

11. Any deed restrictions that apply to the existing lot;

12. Legal descriptions for existing parcels;

13. The applicable County Assessor Map.

C. The tentative property line adjustment map shall be as accurate as possible to ensure proper review by the affected agencies.

D. Within 30 days of receipt of an application, the Planning Director shall review it for compliance with the requirements for submittal and notify the applicant if the application is found to be incomplete.

E. Upon acceptance of a complete application, the Planning Director shall transmit copies of the tentative property line adjustment map to the City Engineer and Public Works as well as other potentially affected agencies where necessary.

F. The Planning Director shall review the proposal for compliance with the provisions of this Ordinance and coordinate the review conducted by affected agencies and applicable districts for compliance with applicable regulations. If the Planning Director believes that existing utilities may be affected by the proposed adjustment, the Planning Director may defer making a decision on the application until the affected service providing agencies have been given an opportunity to review and comment upon the proposal. In addition, an affected agency may request an amended decision within ten days of the issuance of a decision for which comments were not requested, if the agency finds that utilities may be affected by the proposed adjustment.

G. The Planning Director shall review the proposed property line adjustment for compliance with the provisions of this Ordinance, and shall issue a decision to owners of the involved parcels, abutting property owners, and affected service

providing agencies with regard to the compliance of the application with respect to all applicable approval criteria and including any conditions of approval to be completed prior to approval of the final property line adjustment map.
(Ord. 435 § 1, 2004)

16.68.110 Final property line adjustment application submission requirements.

A. All final applications for property line adjustments shall be on forms provided by the City and shall be accompanied by a copy of the final property line adjustment map prepared by a land surveyor licensed to practice in Oregon, and necessary data or narrative.

B. The property line adjustment map and data or narrative shall be drawn to the minimum standards set forth by the Oregon Revised Statutes (ORS 92.050) and by Marion County and shall include the following:

1. The final property line adjustment map must be eighteen inches by twenty-four inches and may be on vellum or mylar;

2. The scale of the may shall be an engineering scale approved by the county surveyor;

3. Name of the owners(s) of the subject parcel;

4. Name of the owner(s) authorized agent (if applicable), and

5. Name, address and phone number of the land surveyor;

6. Dimensions and legal descriptions of the adjusted parcels;

7. Boundary lines and names of adjacent partitions and subdivisions, and tract lines abutting the site;

8. The locations, width and names of streets or other public ways and easements within and adjacent to the proposed partition.

C. The Planning Director shall approve the final property line adjustment map based on findings that:

1. The final property line adjustment map substantially conforms to the approved tentative property line adjustment map; and

2. All conditions of approval for the tentative property line adjustment have been satisfied.
(Ord. 435 § 1, 2004)

16.68.120 Filing and recording.

A. Within ten days of the city review and approval of the final property line adjustment map, the applicant shall submit the final property line adjustment map to the County for recording.

B. Within fifteen days of recording with the county, the applicant shall submit to the city a full size plain paper copy of the recorded property line adjustment map. No building permits shall be issued until the City has received this copy.

16.68.130 Administration and approval process for re-establishment of property lines for tax segregation purposes.

A. The applicant shall be the recorded owner of the property or an agent authorized in writing by the owner.

B. The Planning Director shall approve, approve with conditions or deny a request for a property line re-establishment in writing based on findings that the criteria stated are satisfied as follows:

1. The lot(s) exist as a legal lot(s) of record.

2. An additional lot or parcel is not created by the property line re-establishment.

3. No amendments are made to previously created lot(s) of record.

4. The applicant demonstrates that the lot is buildable and that such construction meets the setback requirements for the zone.

C. The Planning Director shall mail notice of the approval to the owner of the property involved in the proposal.

D. The decision of the Planning Director may be appealed to the P~~p~~lanning C~~c~~ommission. (Ord. 435 § 1, 2004)

16.68.140 Re-establishment application submission requirements.

A. All applications shall be made on forms provided by the City and shall be accompanied by a copy of the tax map, documentation of the legal creation of the lot and a drawing complying with subsection B below.

B. The drawing shall include the following:

1. Name of the owner(s) of the subject parcel,
2. Name of the owner(s) authorized agent (if applicable), and
3. The map scale, north arrow and date;
4. Sufficient description to define the location and boundaries of the lot lines being re-established;
5. The scale shall be an engineering scale sufficient to show the details of the plan and related data;
6. The location, width and names of streets or other public ways and easements within and adjacent to the property;
7. The location of all permanent buildings on and within twenty-five feet of all affected property lines,
8. The location and width of all water courses,
9. All slopes greater than twelve percent, and
10. The location of existing utilities and utility easements;
11. Any deed restrictions that apply to the existing lot;
12. Legal descriptions for existing lot;
13. The applicable County Assessor Map

C. The drawing shall be as accurate as possible to ensure proper review by affected agencies.

D. Within 30 days of receipt of an application, the Planning Director shall review it for compliance with the requirements for submittal and notify the applicant if the application is found to be incomplete.

E. Upon acceptance of a complete application, the Planning Director shall transmit copies of the drawing to the City Engineer and Public Works as well as other potentially affected agencies where necessary.

F. The Planning Director shall review the proposal for compliance with the provisions of this Ordinance and coordinate the review conducted by affected agencies and applicable districts for compliance with applicable regulations. If the Planning Director believes that existing utilities may be affected by the proposal, the Planning Director may defer making a decision on the application until the affected service providing agencies have been given an opportunity to review and comment upon the proposal. In addition, an affected agency may request an amended decision within ten days of the issuance of a decision for which comments were not requested, if the agency finds that utilities may be affected by the proposal.

G. The Planning Director shall review the application for compliance with the provisions of this Ordinance, and shall issue

a decision to owners of the property and affected service providing agencies with regard to compliance of the application with respect to all applicable approval criteria and including any conditions of approval to be completed prior to approval of the re-establishment.

(Ord. 435a § 1, 2004; Ord. 432* § 3, 2004; Ord. 415 § 7.150.070, 2002).

Chapter 16.70

LAND DIVISION--PARTITIONS

Sections:

16.70.010 Purpose.
16.70.020 General provisions.
16.70.030 Administration and approval process.
16.70.040 Partition approval criteria.
16.70.050 Preliminary application submission requirements.
16.70.060 Final application submission requirements.
16.70.070 City acceptance of dedicated land.
16.70.080 Recording of partitions.

16.70.010 Purpose.

The purpose of this chapter is to provide rules, regulations and standards governing approval of land partitions. (Ord. 415 § 7.152.010, 2002)

16.70.020 General provisions.

A. An application for a partition shall be processed through a two-step process: (1) the tentative plan; and (2) the final plat.

1. The tentative plan for a partition shall be approved by the P~~p~~lanning D~~d~~irector before the final plat can be submitted for approval consideration.

2. The final plat shall reflect all conditions of approval of the tentative plan.

B. All partition proposals shall be in conformity with all state regulations set forth in ORS Chapter 92, Subdivisions and Partitions. (Ord. 415 § 7.152.020, 2002)

16.70.030 Administration and approval process.

A. The applicant of a partition proposal shall be the recorded owner of the property or an agent authorized in writing by the owner.

B. No parcel to be created through the partitioning process shall be sold until approval and filing of the final partition plat.

C. Partitions shall be processed according to Chapter 16.78.

D. Upon receipt of a completed application for a partition, the P~~p~~lanning D~~d~~irector shall:

1. Provide notice to affected property owners in accordance with Chapter 16.78;

2. Furnish one copy of the proposed tentative plan to the public works director and the city engineer;

3. Furnish one copy of the tentative plan to:

a. The Marion County land development services, if the proposed partition is adjacent to the UGB or has county road access,

b. The Oregon Department of Transportation (ODOT), if the proposed partition is adjacent to a state highway and access to the state highway is desired by the applicant,

c. The Aurora rural fire district,

d. Any other affected agencies as determined by the P~~p~~lanning D~~d~~irector;

4. The P~~p~~lanning D~~d~~irector shall approve, approve with conditions, or deny any application for tentative plan. The P~~p~~lanning D~~d~~irector shall apply the standards set forth in Section 16.70.040 when reviewing an application for a partition and shall prepare a notice of decision containing findings for the standards set forth in Section 16.70.040. (Ord. 415 § 7.152.030, 2002)

16.70.040 Partition approval criteria.

A request to partition land shall meet all of the following criteria:

A. The proposed partition complies with all statutory and ordinance requirements and regulations;

B. Adequate public facilities are available to serve the proposal. No temporary public facilities shall be permitted. The standards of Chapter 16.34 apply to partitions;

C. All proposed lots conform to the size and dimensional requirements of this title; and

D. All proposed improvements meet city and applicable agency standards. (Ord. 415 § 7.152.040, 2002)

16.70.050 Preliminary application submission requirements.

A. All applications shall be made on forms provided by the city and shall be accompanied by three copies of the preliminary partition map and narrative. One copy shall be no larger than eleven (11) inches by seventeen (17) inches.

B. The preliminary partition map and narrative shall include the following:

1. a. Name of the owner(s) of the subject parcel,

b. Name of the owner(s) authorized agent (if applicable), and

c. Name, address and phone number of the land surveyor;

2. The map scale, north arrow and date;

3. Sufficient description to define the location and boundaries of the proposed area to be partitioned;

4. The scale shall be an engineering scale sufficient to show the details of the plan and related data;

5. The location, width and names of streets or other public ways and easements within and adjacent to the proposed partition;

6. The location of all permanent buildings on and within twenty-five (25) feet of all property lines;

7. The location and width of all water courses;

8. The location of existing utilities and utility easements;

9. Any deed restrictions that apply to the existing parcels;

10. A plan outlining how utilities, public services, and utility easements will serve newly created parcels; and

11. Where it is evident that the subject parcel can be further partitioned, the applicant must show that the land partition will not preclude the efficient division of land in the future.

C. The tentative plan shall be as accurate as possible to ensure proper review by affected agencies.

D. Upon receipt of an application, the P~~p~~lanning D~~d~~irector shall review it for compliance with the requirements for submittal. If the application is found to be incomplete, the planning director shall notify the applicant within thirty (30) days and advise the applicant of the requirements for an acceptable application. The applicant shall submit necessary items within thirty (30) days or such notification or the P~~p~~lanning D~~d~~irector shall return the entire application and fee to the applicant and a new application shall be required.

E. Except as provided in ORS 92.040, the review of the tentative plan does not guarantee the applicant that the final application for a land partition or property line adjustment will be approved nor that additional information or revisions will not be required by the city. (Ord. 415 § 7.152.050, 2002)

16.70.060 Final application submission requirements.

A. All final applications for partitions shall be on forms provided by the city and shall be accompanied by a reproducible copy of the partition plat or the final property line adjustment survey map prepared by a land surveyor licensed to practice in Oregon, and necessary data or narrative.

B. The partition plat and data or narrative shall be drawn to the minimum standards set forth by the Oregon Revised Statutes (ORS 92.050) and by Marion County and shall include the following:

1. The final partition map shall be drawn on an eighteen (18) inch by twenty-four (24) inch Mylar sheet. The final property line adjustment map must be eighteen (18) inches by twenty-four (24) inches and may be on vellum or mylar;

2. The scale of the map shall be an engineering scale approved by the county surveyor;

3. a. Name of the owner(s) of the subject parcel,

b. Name of the owner(s) authorized agent (if applicable), and

c. Name, address and phone number of the land surveyor;

4. The assessor's map and lot number and a copy of the deed, sales contract or document containing a legal description of the land to be partitioned;

5. The map scale, north arrow and date;

6. Dimensions and legal descriptions of the parent parcel and all proposed parcels;

7. Boundary lines and names of adjacent partitions and subdivisions, and tract lines abutting the site;

8. The locations, width and names of streets or other public ways and easements within and adjacent to the proposed partition;

9. Any deed restrictions that apply to existing or proposed lots; and

10. Signature blocks for city approval and acceptance of public easements and rights-of-way. (Ord. 415 § 7.152.060, 2002)

16.70.070 City acceptance of dedicated land.

A. The M~~m~~ayor shall accept by signature on the final plat the proposed right-of-way dedication prior to recording a land partition.

B. The M~~m~~ayor shall accept by signature on the final plat all public easements shown for dedication on partition plats maps. (Ord. 415 § 7.152.070, 2002)

16.70.080 Recording of partitions.

A. Within ten (10) days of the P~~p~~lanning D~~d~~irector's approval of the partition and the M~~m~~ayor's acceptance of any dedicated land to the city, the applicant shall record the partition plat with Marion County and submit the recordation numbers to the city, to be incorporated into the record.

B. The applicant shall submit a recorded plain paper copy of the final partition plat to the city within fifteen (15) days of recording. No building permits shall be issued until the city receives this copy. (Ord. 415 § 7.152.080, 2002)

Chapter 16.72

LAND DIVISION--SUBDIVISIONS

Sections:

16.72.010 Purpose.
16.72.020 General provisions.
16.72.030 Administration and approval process.
16.72.040 Approval standards--Tentative plan.
16.72.050 Application submission requirements--Tentative plan.
16.72.060 Application submission requirements--Final plat.
16.72.070 Final plat--Approval criteria.
16.72.080 Centerline monumentation--Monument box requirements.
16.72.090 Improvement agreement.
16.72.100 Bond--Cash deposit.
16.72.110 Filing and recording.
16.72.120 Prerequisites to recording the plat.
16.72.130 Vacation of plats.
16.72.140 Vacation of streets.

16.72.010 Purpose.

The purpose of this chapter is to provide rules, regulations and standards governing the approval of plats of subdivisions, to carry out the development pattern and plan of the city, to promote the public health, safety and general welfare, to lessen congestion in the streets, and secure safety from fire, flood, pollution and other dangers, to provide adequate light and air, prevent overcrowding of land, and facilitate adequate provision for transportation, water supply, sewage and drainage; and to encourage the conservation of energy resources.

(Ord. 415 § 7.154.010, 2002)

16.72.020 General provisions.

A. An application for a subdivision shall be processed through a two-step process: the tentative plan and the final plat:

1. The tentative plan shall be approved by the P~~p~~lanning C~~c~~ommission before the final plat can be submitted for approval consideration; and

2. The final plat shall be approved by the P~~p~~lanning D~~d~~irector and shall reflect all conditions of approval of the tentative plan.

B. All subdivision proposals shall be in conformity with all state regulations set forth in ORS Chapter 92, Subdivisions and Partitions.

C. When subdividing tracts into large lots, the P~~p~~lanning C~~c~~ommission shall require that the lots be of such size and shape as to facilitate future re-division in accordance with the requirements of the zoning district and this title.

D. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located to minimize flood damage and constructed according to public works design standards and specifications. (Ord. 415 § 7.154.020, 2002)

16.72.030 Administration and approval process.

A. Subdivision proposals shall be processed according to the procedures in Chapter 16.78.

B. Final action on the tentative plan, including the resolution of all appeals and review on the land division application, shall be taken within one hundred twenty (120) days after the application is deemed complete.

C. The P~~p~~lanning D~~d~~irector shall:

1. Schedule a limited land use decision pursuant to Chapter 16.78 to be held by the Pplanning Cecommission within sixty (60) days from the time the complete application is filed and shall provide a notice of the hearing;

2. Furnish one copy of the proposed tentative plan to the city engineer;

3. Furnish one copy of the tentative plan and supplemental material to:

a. Marion County road department if the proposed subdivision is adjacent to a county road and access to the county road is desired by the applicant,

b. The Oregon Department of Transportation (ODOT), if the proposed subdivision is adjacent to a state highway and access to the state highway is desired by the applicant,

c. Aurora rural fire district,

d. The North Marion school district,

e. Any other affected agencies as identified by the Pplanning Dedirector;

4. Incorporate all staff recommendations into a report to the planning commission.

D. The Pplanning Dedirector shall mail notice of the tentative plan proposal to persons who are entitled to notice.

E. The Pplanning Cecommission shall approve, approve with conditions, or deny any application for tentative plan. The Pplanning Cecommission shall apply the standards set forth in Section 16.72.040 when reviewing an application for a subdivision.

(Ord. 415 § 7.154.030, 2002)

16.72.040 Approval standards--Tentative plan.

A. The Pplanning Cecommission may approve, approve with conditions or deny a tentative plan based on the following approval criteria:

1. The proposed tentative plan complies with the city's comprehensive plan, the applicable chapters of this title, and other applicable ordinances and regulations;

2. The proposed plat name is not duplicative or otherwise satisfies the provisions of ORS Chapter 92.090(1));

3. The streets and roads are laid out so as to conform to the plats of subdivisions and maps of major partitions already approved for adjoining property as to width, general direction and in all other respects unless the city determines it is in the public interest to modify the street or road pattern; and

4. All public improvements comply with Chapter 16.34.

B. The Pplanning Cecommission may attach such conditions as are necessary to carry out the comprehensive plan and other applicable ordinances and regulations and may require reserve strips be granted to the city for the purpose of controlling access to adjoining undeveloped properties. (Ord. 415 § 7.154.050, 2002)

16.72.050 Application submission requirements--Tentative plan.

A. All applications shall be made on forms provided by the city and shall be accompanied by:

1. Three full size copies of the tentative plan map and required data or narrative and one eleven (11) inch by seventeen (17) inch copy of the tentative plan and required data or narrative;

2. The applicable county assessor map.

B. The tentative plan map and data or narrative shall include the following:

1. Sheet size for the tentative plan shall not exceed eighteen (18) inches by twenty-four (24) inches;

2. The scale shall be an engineering scale, and limited to one phase per sheet;

3. Vicinity map showing the general location of the subject property in relationship to arterial and collector streets;

4. Names, addresses and telephone numbers of the owner, developer, engineer, surveyor and designer, as applicable;

5. The date of application;

6. The assessor's map and tax lot number and a legal description sufficient to define the location and boundaries of the proposed subdivision;

7. The boundary lines of the tract to be subdivided;

8. The names of adjacent subdivisions or the names of recorded owners of adjoining parcels of unsubdivided land;

9. Existing contour lines related to a city established benchmark at two-foot intervals for grades zero to ten (10) percent and five-foot intervals for grades over ten (10) percent;

10. The purpose, location, type and size of all the following (within and adjacent to the proposed subdivision) existing and proposed:

a. Public and private rights-of-way and easements,

b. Public and private sanitary and storm sewer lines, domestic water mains including fire hydrants, gas mains, major power (fifty thousand (50,000) volts or better), telephone transmission lines, and watercourses, and

c. Deed reservations for parks, open spaces, pathways, tree conservation easements, and any other land encumbrances;

11. Approximate plan and profiles of proposed sanitary and storm sewers with grades and pipe sizes indicated and plans of the proposed water distribution system, showing pipe sizes and the location of valves and fire hydrants;

12. Approximate centerline profiles showing the finished grade of all streets including street extensions for a reasonable distance beyond the limits of the proposed subdivision;

13. Scaled cross sections of proposed street rights-of-way;

14. The location of all areas subject to inundation or stormwater overflow, and the location, width and direction of flow of all watercourses and drainageways;

15. The proposed lot configurations, approximate lot dimensions and lot numbers. Where lots are to be used for purposes other than residential, it shall be indicated upon such lots;

16. The existing use of the property, including location of all structures and present use of the structures, and a statement of which structures are to remain after platting;

17. Supplemental information including proposed deed restrictions, if any, proof of property ownership, and a proposed plan for provision of subdivision improvements;

18. Existing natural features including waterways, rock outcroppings, wetlands and marsh areas.

C. If any of the foregoing information cannot practicably be shown on the tentative plan, it shall be incorporated into a narrative and submitted with the application.

(Ord. 415 § 7.154.060, 2002)

16.72.060 Application submission requirements--Final plat.

Unless otherwise provided in Section 16.72.020, the applicant shall submit final plat and two copies to the P~~p~~lanning D~~d~~irector within two years which complies with the approved tentative plan.

(Ord. 415 § 7.154.070, 2002)

16.72.070 Final plat--Approval criteria.

A. The P~~p~~lanning D~~d~~irector shall review the final plat and shall approve or deny the final plat approval based on findings that:

1. The final plat complies with the plat approved by the P~~p~~lanning C~~c~~ommission and all conditions of approval have been satisfied;

2. The streets and roads for public use are dedicated without reservation or restriction other than revisionary rights upon vacation of any such street or road and easements for public utilities;

3. The streets and roads held for private use and indicated on the tentative plan of such subdivision have been approved by the city;

4. The plat contains a donation to the public of all common improvements, including but not limited to streets, roads, parks, storm drainage, sewage disposal, and water supply systems;

5. An explanation is included which explains all of the common improvements required as conditions of approval and are in recordable form and have been recorded and referenced on the plat;

6. The final plat complies with the applicable zoning ordinance and other applicable ordinances and regulations;

7. A certificate has been provided by the public works director that municipal water and sewer will be available to the property line of each and every lot depicted in the proposed plat;

8. Copies of signed deeds have been submitted granting the city a reserve strip as provided by Section 16.72.040(B);

9. The final plat has been made in black India ink, or silver halide and is eighteen (18) inches by twenty-four (24) inches in size on four mil double matted mylar;

10. The lettering of the entire plat is of such size and type as approved by the county surveyor and the plat is at such a scale as will be clearly legible, but no part shall come nearer any edge of the sheet than one inch;

11. If there are three or more sheets, a face sheet and index has been provided;

12. The final plat contains a surveyor's affidavit by the surveyor who surveyed the land represented on the plat to the effect the land was correctly surveyed and marked with proper monuments as provided by ORS Chapters 92.050 and 92.060 and indicating the initial point of the survey, and giving the dimensions and kind of such monument, and its reference to some corner established by the U.S. Survey or a lot corner of recorded subdivision or partition;

13. The final plat contains an affidavit for signature by the M~~m~~ayor accepting street rights-of-way and street improvements for jurisdiction and maintenance by the city and accepting dedications of property to the city;

14. The final plat contains an affidavit for signature by the city engineer certifying that the final plat meets the requirements of the public works design standards for all improvements to be maintained by the city;

15. The final plat shall not contain any information or be subject to any requirements that is or may be subject to administrative change or variance (ORS 92.050(11)).

B. The acceptance by the city for maintenance and jurisdiction shall follow approval of the completed improvements.

(Ord. 415 § 7.154.080, 2002)

16.72.080 Centerline monumentation--Monument box requirements.

A. The centerlines of all street and roadway rights-of-way shall be monumented and recorded before city acceptance of street improvements; and the following centerline monuments shall be set:

1. All centerline-centerline intersection points;

2. All cul-de-sac center points;

3. Curve points, beginning and ending points (point of curvature (P.C.) and point of tangency (P.T.)); and

4. The beginning and end of each new street.

B. Monument boxes conforming to city standards will be required around all centerline intersection points and cul-de-sac center points; and the tops of all monument boxes will be set to finished pavement grade. (Ord. 415 § 7.154.090, 2002)

16.72.090 Improvement agreement.

A. If the applicant seeks approval of the final plat prior to completion of the required infrastructure improvements, before city approval is certified on the final plat, and before approved construction plans are issued by the city, the applicant shall:

1. Execute and file an agreement with the city specifying the period within which all required improvements and repairs shall be completed; and

2. Include in the agreement provisions that if such work is not completed within the period specified, the city may complete the work and recover the full cost and expenses from the declarant.

B. The agreement shall stipulate improvement fees and deposits as may be required to be paid and may also provide for the construction of the improvements in stages and for the extension of time under specific conditions therein stated in the contract. (Ord. 415 § 7.154.100, 2002)

16.72.100 Bond--Cash deposit.

A. As required by Section 16.72.090, the declarant shall file with the agreement an assurance of performance supported by one of the following:

1. An irrevocable letter of credit executed by a financial institution authorized to transact business in the state of Oregon;

2. A surety bond executed by a surety company authorized to transact business in the state of Oregon which remains in force until the surety company is notified by the city in writing that it may be terminated; or

3. Cash.

B. The assurance of performance shall be for a sum determined by the city engineer as required to cover the cost of the improvements and repairs, including related engineering and incidental expenses.

C. The declarant shall furnish to the city an itemized improvement estimate, certified by a registered civil engineer, to assist the city in calculating the amount of the performance assurance.

D. In the event the declarant fails to carry out all provisions of the agreement and the city has unreimbursed costs or expenses resulting from such failure, the city shall call on the bond, cash deposit or letter of credit for reimbursement.

E. The declarant shall not cause termination of nor allow expiration of the guarantee without having first secured written authorization from the city.
(Ord. 415 § 7.154.110, 2002)

16.72.110 Filing and recording.

A. Within ten (10) days of the city review and approval, the applicant shall submit the final plat to the county for signatures of county officials as required by ORS Chapter 92 and Section 16.72.070.

B. Within fifteen (15) days of final recording with the county, the applicant shall submit to the city a full-size plain paper copy of the recorded final plat and a reproducible copy no greater than eleven (11) inches by seventeen (17) inches. No building permits shall be issued until the city has received these copies.
(Ord. 415 § 7.154.120, 2002)

16.72.120 Prerequisites to recording the plat.

A. No plat shall be recorded unless all ad valorem taxes and all special assessments, fees, or other charges required by law to be placed on the tax roll have been paid in the manner provided by ORS 92.095.

B. No plat shall be recorded until it is approved by the county surveyor in the manner provided by ORS 92.

(Ord. 415 § 7.154.130, 2002)

16.72.130 Vacation of plats.

A. Any plat or portion thereof may be vacated by the owner of the platted area at any time prior to the sale of any lot within the platted subdivision.

B. All applications for a plat or street vacation shall be made in accordance with Sections 16.72.020, 16.72.030 and 16.72.080(A).

C. The application may be denied if it abridges or destroys any public right in any of its public uses, improvements, streets or alleys.

D. All approved plat vacations shall be recorded in accordance with Section 16.72.110:

1. Once recorded, the vacation shall operate to eliminate the force and effect of the plat prior to vacation; and

2. The vacation shall also divest all public rights in the streets, alleys and public grounds, and all dedications laid out or described on the plat.

E. When lots have been sold, the plat may be vacated in the manner herein provided by all of the owners of lots within the platted area.

(Ord. 415 § 7.154.140, 2002)

16.72.140 Vacation of streets.

All street vacations shall comply with the procedures and standards set forth in ORS Chapter 271 and any applicable city ordinance or regulation.

(Ord. 415 § 7.154.150, 2002)

Chapter 16.74

PROCEDURES FOR DECISION MAKING--LEGISLATIVE

Sections:

16.74.010 Purpose.
16.74.020 Application process.
16.74.030 Notice requirements.
16.74.040 Staff reports.
16.74.050 Hearings procedure.
16.74.060 Standards for the decision.
16.74.070 Approval process and authority.
16.74.080 Vote required for a legislative change.
16.74.090 Re-application.

16.74.010 Purpose.

The purpose of this chapter is to establish procedures for consideration of legislative changes to the provisions of the comprehensive plan, implementing ordinances and maps. (Ord. 415 § 7.160.010, 2002)

16.74.020 Application process.

A. The application process may be initiated by:

1. Motion approved by the C~~c~~ity C~~c~~ouncil;

2. Motion approved by the P~~p~~lanning C~~c~~ommission;

3. The P~~p~~lanning D~~d~~irector;

4. A recognized neighborhood planning organization or city advisory board or commission; or

5. Application of a record owner of property or contract purchaser.

B. Any persons authorized by this title to submit an application for approval may be represented by an agent authorized in writing to make the application.

C. The application shall be made on forms provided by the city.

D. The application shall be complete and shall:

1. Contain the information requested on the form;

2. Address the appropriate criteria in sufficient detail for review and action;

3. Be accompanied by the required fee except as follows:

a. Fees for land use applications and appeals of a land use decision shall be waived for a recognized neighborhood planning organization (NPO) if the appeal or land use application is supported by a majority vote of NPO members at a public meeting where a quorum of NPO members was present and a copy of the minutes of the NPO meeting where the appeal or land use application was initiated is submitted with the appeal or land use application.

b. The NPO chairperson or designated representative shall appear at the next available C~~c~~ity C~~c~~ouncil meeting after the application or appeal is filed to request a waiver. The NPO shall work with the P~~p~~lanning D~~d~~irector to schedule the item on a council agenda.

c. Council may, on its own motion and by voice vote, waive the appeal fee for other nonprofit organizations;

4. Be accompanied by a narrative addressing the standards in Section 16.74.060.

E. An application shall be deemed incomplete unless it addresses each element required by the form and each element required by this title and is accompanied by the required fee.

F. The P~~p~~lanning D~~d~~irector shall not accept an incomplete application.

G. The P~~p~~lanning D~~d~~irector may require information in addition to that required by a specific provision of this title, provided the P~~p~~lanning D~~d~~irector determines this information is needed to properly evaluate the proposed development proposal; and the

need can be justified on the basis of a special or unforeseen circumstance.

H. The Pplanning Ddirector may waive the submission of information for a specific requirement provided the Pplanning Ddirector finds that specific information is not necessary to properly evaluate the application; or the Pplanning Ddirector finds that a specific approval standard is not applicable to the application.

(Ord. 415 § 7.160.020, 2002)

16.74.030 Notice requirements.

A. The Pplanning Ccommission shall hold at least one public hearing on each application request within sixty (60) days of receipt of a completed application.

B. The Ccouncil shall hold at least one public hearing on each application request within forty-five (45) days of the Pplanning Ccommission's recommendation.

C. Notice of legislative public hearings shall be given by the Pplanning director in the following manner:

1. At least forty-five (45) days before the first evidentiary hearing on adoption of any proposal to amend the comprehensive plan or to adopt a new land use regulation, notice shall be sent to the DLCD;

2. At least ten (10) days prior to the scheduled hearing date, written notice shall be sent to:

a. The applicant;

b. Any affected governmental agency;

c. The affected recognized neighborhood planning organization;

d. Any person who requests notice in writing; and

e. Any affected property owner when legislation will limit or prohibit otherwise permissible land uses.

3. At least seven days prior to the scheduled public hearing date, notice shall be published in a newspaper of general circulation in the city.

4. Notice may be given for both the commission and council hearings in one consolidated notice.

D. The Pplanning Ddirector shall:

1. Cause a copy of the notice and the applicable mailing list to be filed and made a part of the record; and

2. Cause a copy of the notice to be published to be filed and made part of the record.

(Ord. 415 § 7.160.030, 2002)

16.74.040 Staff reports.

A. The Pplanning Ddirector shall prepare a staff report which includes:

1. The facts found relevant to the proposal and found by the Pplanning Ddirector to be true;

2. Any applicable statewide planning goals and guidelines adopted under Oregon Revised Statutes Chapter 197;

3. Any federal or state statutes or rules found applicable;

4. The applicable comprehensive plan policies and map;

5. The applicable provisions of the implementing ordinances;

6. If applicable, proof of a substantial change in circumstances, a mistake, or inconsistency in the comprehensive plan or implementing ordinance which is the subject of the application;

7. An analysis relating the facts found to be true by the Pplanning Ddirector to the applicable criteria and a recommendation for approval, approval with modifications or denial and if applicable, any alternative recommendations.

B. The staff report and all case file materials shall be available seven days prior to the initial scheduled Pplanning Ccommission hearing.

C. Prior to the initial council hearing, the Pplanning Ddirector shall transmit the following to the council members:

1. A copy of the staff report as submitted to the commission;

2. A copy of the commission recommendation.

(Ord. 415 § 7.160.040, 2002)

16.74.050 Hearings procedure.

A. Unless otherwise provided in the rules of procedure adopted by the city council the presiding officer of the Pplanning Ccommission and of the Ccouncil shall have the authority to:

1. Regulate the course, sequence and decorum of the hearing;

2. Dispose of procedural requirements or similar matters;

3. Rule on offers of proof and relevancy of evidence and testimony;

4. Impose reasonable time limits for oral presentation and rebuttal testimony; and

5. Take such other action appropriate for conduct commensurate with the nature of the hearing.

B. Unless otherwise provided in the rules of procedures adopted by the Ccouncil, the presiding officer of the Pplanning Ccommission and of the Ccouncil, shall conduct the hearing as follows:

1. Opening Statement: The hearing shall be opened by a statement from the presiding officer setting forth the nature of the matter before the body, a general summary of the procedures set forth in this section, and whether the decision which will be made is a recommendation to the Ccity Ccouncil or whether it will be the final decision of the Ccouncil.

2. Hearing Process.

a. A presentation of the staff report and other applicable reports shall be given.

b. Presentation by applicant or representative.

c. The public shall be invited to testify.

d. Staff shall be invited to comment on testimony or evidence presented.

e. The public hearing may be continued to another hearing date to allow additional testimony or it may be closed.

f. The body's deliberation may include questions to staff, comments from the staff or inquiries directed to any person present.

3. The hearing body may make a decision on the matter, continue its deliberation, table the matter or, if the body deems it necessary or advisable, it may direct that additional hearings be held.

4. The Pplanning Ccommission or the Ccouncil may continue any hearing and no additional notice shall be required if the matter is continued to a place, date and time certain.

C. Unless otherwise provided in the rules of procedures adopted by the Ccouncil, the following rules shall apply to the general conduct of the hearing:

1. The approval authority may ask questions at any time before the close of the hearing, and the answers shall be limited to the substance of the question.

2. Parties or the Pplanning Ddirector must receive approval from the approving authority to submit questions directly to other parties or witnesses or the Pplanning Ddirector.

3. A reasonable amount of time shall be given to persons to respond to questions.

4. No person shall testify without first receiving recognition from the approval authority and stating his or her full name and address.

5. The approval authority may require that testimony be under oath or affirmation.

6. Audience demonstrations such as applause, cheering and display of signs, or other conduct disruptive of the hearing shall not be permitted. Any such conduct may be cause for immediate suspension of the hearing or removal of persons responsible.

7. No person shall be disorderly, abusive, or disruptive of the orderly conduct of the hearing.

(Ord. 415 § 7.160.050, 2002)

16.74.060 Standards for the decision.

A. The recommendation by the Pplanning Cccommission and the decision by the Cccouncil shall be based on consideration of the following factors:

1. Any applicable statewide planning goals and guidelines adopted under Oregon Revised Statutes Chapter 197;

2. Any federal or state statutes or rules found applicable;

3. The applicable comprehensive plan policies and map; and

4. The applicable provisions of the implementing ordinances.

B. Consideration may also be given to proof of a substantial change in circumstances, a mistake, or inconsistency in the comprehensive plan or implementing ordinance which is the subject of the application.

(Ord. 415 § 7.160.060, 2002)

16.74.070 Approval process and authority.

A. Following the public hearing, the Pplanning Cccommission shall formulate a recommendation to the Cccouncil to approve, to approve with modifications or to deny the proposed change, or to adopt an alternative.

B. Within ten (10) days of the Pplanning Cccommission's recommendation, the Pplanning Ddirector shall provide written notification to the Cccouncil and to all persons who provided testimony.

C. Any member of the Cccommission who voted in opposition to the recommendation by the commission on a proposed change may file a written statement of opposition with the Pplanning Ddirector prior to any council public hearing on the proposed change. The Pplanning Ddirector shall transmit a copy to each member of the Cccouncil and place a copy in the record.

D. If the Pplanning Cccommission fails to recommend approval, approval with modification, or denial of the proposed legislative change within sixty (60) days of its first public hearing on the proposed change, the Pplanning Ddirector shall:

1. Report the failure to approve a recommendation on the proposed change to the Cccouncil; and

2. Cause notice to be given, the matter to be placed on the Cccouncil's agenda, a public hearing to be held and a decision to be made by the Cccouncil. No further action shall be taken by the Pplanning Cccommission.

E. The Cccouncil shall:

1. Have the responsibility to approve, approve with modifications or deny an application for the legislative change or to remand to the Pplanning Cccommission for rehearing and reconsideration on all or part of an application transmitted to it under this title. The Cccouncil may set conditions of approval that require conveyances and dedications of property needed for public use as a result of the development, code, plan or map amendment;

2. Consider the recommendation of the Pplanning Cccommission, however, it is not bound by the Pplanning Cccommission's recommendation; and

3. Act by ordinance on applications which are approved and shall be signed by the Mmmayor after the Cccouncil's adoption of the ordinance.

E. The approved legislative change shall take effect after adoption as specified in the enacting ordinance. (Ord. 415 § 7.160.070, 2002)

16.74.080 Vote required for a legislative change.

A. An affirmative vote by a majority of members of the P~~p~~lanning C~~c~~ommission present shall be required for a recommendation for approval, approval with modifications, or denial.

B. An affirmative vote by a majority of the members of the C~~c~~ouncil present shall be required to decide any proposed change. (Ord. 415 § 7.160.080, 2002)

16.74.090 Re-application.

If an application has been made and denied in accordance with the provisions set forth in this title or by action by the land use board of appeals, the land conservation and development commission, or the courts, no new application for the same or substantially similar change shall be accepted within one year from the date of the final action denying the application; except the C~~c~~ouncil may re-initiate an application upon a finding that there has been a substantial change in the facts surrounding the application or a change in policy which would support the re-application.

(Ord. 415 § 7.160.090, 2002)

Chapter 16.76

PROCEDURES FOR DECISION MAKING--QUASI-JUDICIAL

Sections:

16.76.010 Purpose.
16.76.020 Application process.
16.76.030 Consolidation of proceedings.
16.76.040 Noticing requirements.
16.76.050 Contents of the notice.
16.76.060 Failure to receive notice.
16.76.070 Time period for decision making.
16.76.080 Approval authority responsibilities.
16.76.090 Decision by the Pplanning director.
16.76.100 Notice of a decision by the Pplanning Ddirector.
16.76.110 Hearings procedures.
16.76.120 Standards for the decision.
16.76.130 Denial of the application--Re-submittal.
16.76.140 Record may remain open--Admission of new evidence.
16.76.150 Ex parte communications with approval authority.
16.76.160 Continuation of the hearing.
16.76.170 Evidence.
16.76.180 Judicial notice.
16.76.190 Participation in the decision--Voting.
16.76.200 Record of proceeding for public hearings.
16.76.210 Form of the final decision.
16.76.220 Notice of final decision by the Pplanning Ccommission or Ccouncil.
16.76.230 Amending a decision by the Pplanning Ddirector.
16.76.240 Standing to appeal.
16.76.250 Computation of appeal period.
16.76.260 Determination of appropriate appeal body.
16.76.270 Type of appeal hearing--Limitations of appeal.
16.76.280 Transcripts.
16.76.290 Notice of appeal.
16.76.300 Fee waivers.
16.76.310 Persons entitled to notice of appeal--Type of notice.
16.76.320 Contents of notice of appeal.
16.76.330 Action on appeal.
16.76.340 Effective date of final action.
16.76.350 Revocation of approvals.
16.76.360 Expiration and extension of approvals.

16.76.010 Purpose.

The purpose of this chapter is to establish procedures for the consideration of development applications, for the consideration of quasi-judicial comprehensive plan or zoning amendments and for appeal of quasi-judicial decisions. (Ord. 415 § 7.162.010, 2002)

16.76.020 Application process.

A. The applicant shall be the recorded owner of the property or an agent authorized in writing by the owner.

B. The applicant shall be required to meet with the Pplanning Ddirector for a pre-application conference. Such a requirement may be waived in writing by the applicant.

C. At such conference, the Pplanning Ddirector shall:

1. Cite the applicable comprehensive plan policies and map designation;

2. Cite the applicable substantive and procedural ordinance provisions;

3. Provide available technical data and assistance which will aid the applicant as provided by the city engineer;

4. Identify other policies and regulations that relate to the application; and

5. Identify other opportunities or constraints that relate to the application.

D. Another pre-application conference is required if an application is submitted six months after the pre-application conference.

E. Failure of the Pplanning Ddirector to provide any of the information required by this chapter shall not constitute a waiver of the standards, criteria or requirements of the applications. Neither the city nor the Pplanning Ddirector shall be liable for any incorrect information provided in the pre-application conferences.

F. Applications for approval required under this title may be initiated by:

1. Motion of the City Ccouncil;

2. Motion of the Pplanning Ccommission;

3. The Pplanning Ddirector;

4. A recognized neighborhood planning organization or city advisory board or commission; or

5. Application of a record owner of property or contract purchaser.

G. Any persons authorized by this title to submit an application for approval may be represented by an agent authorized in writing to make the application.

H. The application shall be made on forms provided by the city.

I. The application shall:

1. Include the information requested on the application form;

2. Address appropriate criteria in sufficient detail for review and action; and

3. Be accompanied by the required fee.

I. The Pplanning Ddirector may require information in addition to that required by a specific provision of this title, provided the Pplanning Ddirector determines this information is needed to properly evaluate the proposed development proposal; and the need can be justified on the basis of a special or unforeseen circumstance.

J. The Pplanning Ddirector may waive the submission of information for a specific requirement, provided the Pplanning Ddirector finds that specific information is not necessary to properly evaluate the application; or the Pplanning Ddirector finds that a specific approval standard is not applicable to the application.

K. Where a requirement is found by the Pplanning Ddirector to be inapplicable, the Pplanning Ddirector shall:

1. Indicate for the record and to the applicant the specific requirements found inapplicable;

2. Advise the applicant that the finding may be challenged on appeal or at the hearing or decision on the matter and may be denied by the approval authority; and

3. Cite in the staff report the specific requirements found inapplicable.

L. An application shall be deemed incomplete unless it addresses each element required to be considered under applicable provisions of this title and the application form, unless that requirement has been found inapplicable by the Pplanning Ddirector. The Pplanning Ddirector shall not accept an incomplete application.

M. If an application is incomplete, the Pplanning Ddirector shall:

1. Notify the applicant within thirty (30) days of receipt of the application of exactly what information is missing; and

2. Allow the applicant thirty (30) days to submit the missing information.

N. The application shall be deemed complete when the missing information is provided and at that time the one hundred twenty (120) day time period shall begin to run for the purposes of satisfying state law.

O. If the applicant refuses to submit the missing information, the application shall be deemed incomplete on the sixty-first day after the Pplanning Ddirector first received the application and returned to the applicant.

(Ord. 415 § 7.162.020, 2002)

16.76.030 Consolidation of proceedings.

A. Except as provided in subsection C of this section, whenever an applicant requests more than one approval and more than one approval authority is required to decide the applications, the proceedings shall be consolidated so that one approval authority shall decide all applications in one proceeding.

B. In such cases as stated in subsection A of this section, the hearings shall be held by the approval authority having original jurisdiction over one of the applications under Section 16.76.090, in the following order of preference: the C~~c~~ouncil, the commission, or the P~~p~~lanning D~~d~~irector.

C. Where there is a consolidation of proceedings:

1. The notice shall identify each action to be taken;

2. The decision on a plan map amendment shall precede the decision on the proposed zone change and other actions. Plan map amendments are not subject to the one hundred twenty (120) day decision making period prescribed by state law and such amendments may involve complex issues. Therefore, the P~~p~~lanning D~~d~~irector shall not be required to consolidate a plan map amendment and a zone change or other permit applications requested unless the applicant requests the proceedings be consolidated and signs a waiver of the one hundred twenty (120) day time limit prescribed by state law for zone change and permit applications; and

3. Separate actions shall be taken on each application.

D. Consolidated Permit Procedure.

1. When the consolidated procedure is utilized, application and fee requirements shall remain as provided by resolution approved by the C~~c~~ouncil. If more than one permit is required by this title or other ordinance to be heard by the P~~p~~lanning C~~c~~ommission or C~~c~~ity C~~c~~ouncil, each such hearing shall be combined with any other permit also requiring such hearing. The standards applicable to each permits by this title or any other ordinance shall be applied in the consolidated procedures to each application.

2. In a consolidated proceeding, the staff report and recommendation provided by the P~~p~~lanning D~~d~~irector shall be consolidated into a single report.

3. All rules and ordinances of the city not in conflict with this section shall apply in a consolidated permit procedure.

(Ord. 415 § 7.162.030, 2002)

16.76.040 Noticing requirements.

A. Notice of a pending quasi-judicial public hearing shall be given by the P~~p~~lanning D~~d~~irector in the following manner:

1. At least twenty (20) days prior to the scheduled hearing date, or if two or more hearings are scheduled, ten (10) days prior to the first hearing, notice shall be sent by mail to:

a. The applicant and all owners or contract purchasers of record of the property which is the subject of the application,

b. All property owners of record or the most recent property tax assessment roll:

i. Within two hundred (200) feet of the property which is the subject of the notice where the subject property is wholly or in part within the urban growth boundary,

ii. Within two hundred fifty (50) feet of the property which is the subject of the notice where the subject property is outside the urban growth boundary and not within a farm or forest zone,

iii. Within five hundred (500) feet of the property which is the subject of the notice

where the subject property within a farm or forest zone,

iv. If the adjoining property(s) subject to the notice are excessively large lots, the notice of hearing shall be provided to a minimum of two adjoining property owners in each lot side direction,

c. Any governmental agency affected by the decision which has entered into an intergovernmental agreement with the city which includes provision for such notice,

d. Acknowledged neighborhood planning organizations, if active,

e. Any person who requests, in writing, and

f. The appellant and all parties to an appeal;

2. Notice of a hearing on a proposed zone change for a manufactured home park shall be given to tenants of that manufactured home park at least twenty (20) days but no more than forty (40) days prior to the hearing; and

3. The P~~p~~lanning D~~d~~irector shall cause an affidavit of mailing of notice to be filed and made a part of the administrative record.

C. For all quasi-judicial decisions requiring a public hearing, at least ten (10) days prior to the hearing, notice shall be given in a newspaper of general circulation in the city. An affidavit of publication shall be made part of the administrative record.

(Ord. 415 § 7.162.040, 2002)

16.76.050 Contents of the notice.

Notice given to persons entitled to mailed or published notice pursuant to Section 16.76.040 shall include the following information:

A. A description of the subject property, the street address if available, and a general location which shall include tax map designations from the county assessor's office;

B. Except for notice published in the newspaper, a map showing the location of the property;

C. An explanation of the nature of the application and the proposed use or uses which could be authorized;

D. The applicable criteria from the ordinances and comprehensive plan that apply to the application;

E. The time, place and date of the public hearing;

F. A statement that both public oral and written testimony is invited, a general explanation of the requirements for submission of evidence and the procedure for conduct of the hearing;

G. State that copies of all evidence relied upon by the applicant are available for review, and that copies can be obtained at cost;

H. A statement that all documents or evidence in the file are available for inspection at no cost, or copies at a reasonable cost;

I. A statement that a copy of the staff report will be available for inspection at no cost, or copies at reasonable cost, at least seven days prior to the hearing;

J. A statement that failure to raise an issue in the hearing or during the comment period, in person or by letter, or failure to provide sufficient specific detail to give the decision maker or hearing body an opportunity to respond to the issue, precludes appeal to the land use board of appeals on that issue. Issues shall be raised with sufficient specificity to enable the decision maker to respond to the issue.

(Ord. 415 § 7.162.050, 2002)

16.76.060 Failure to receive notice.

A. Where either the P~~p~~lanning C~~c~~ommission or C~~c~~ouncil or both intend to hold more than one public hearing on the same application, notice of several public

hearings before both approval authorities may be given in one notice.

B. The failure of a property owner to receive notice shall not invalidate the action provided a good faith attempt was made to notify all persons entitled to notice.

C. Personal notice is deemed given when the notice is deposited with the United States Postal Service.

D. Published notice is deemed given on the date it is published.

E. In computing the length of time that notice is given, the first date notice is given shall be excluded and the day of the hearing or the date on which the appeal period expires shall be included unless the last day falls on any legal holiday or on Saturday, in which case, the last day shall be the next business day.

F. The records of the Marion County assessor's office shall be the official records used for giving notice required in this title, and a person's name and address which is not on file at the time the notice mailing list is initially prepared is not a person entitled to notice.

(Ord. 415 § 7.162.060, 2002)

16.76.070 Time period for decision making.

The city shall take final action on an application for a permit, plan change or zone change, including the resolution of all appeals, within one hundred twenty (120) days after the application is deemed complete, except:

A. The one hundred twenty (120) day period may be extended for a reasonable period of time at the request of the applicant;

B. The one hundred twenty (120) day period applies only to a decision wholly within the authority and control of the city; and

C. The one hundred twenty (120) day period does not apply to an amendment to an acknowledged comprehensive plan or land use regulation.

(Ord. 415 § 7.162.070, 2002)

16.76.080 Approval authority responsibilities.

A. The P~~p~~lanning D~~d~~irector shall have the authority to approve, deny or approve with conditions the following applications:

1. Determination of parking requirements for unlisted uses;

2. Determination of visual clearance area pursuant to Chapter 16.40;

3. Determination of access, egress and circulation plan (not subject to P~~p~~lanning C~~c~~ommission approval) pursuant to public works design standards;

4. Signs pursuant to Chapter 16.44;

5. Type I home occupation pursuant to Chapter 16.46;

6. Telecommunications facilities pursuant to Chapter 16.50.

B. The P~~p~~lanning D~~d~~irector may refer any application for review to the P~~p~~lanning C~~c~~ommission.

C. The P~~p~~lanning C~~c~~ommission shall conduct a public hearing in the manner prescribed by this chapter and shall have the authority to approve, approve with conditions, approve with modifications or deny the following development applications:

1. Interpretations subject to Section 16.02.050;

2. Recommendations for applicable comprehensive plan and zoning district designations to C~~c~~ity C~~c~~ouncil for lands annexed to the city;

3. A quasi-judicial comprehensive plan map amendment except the P~~p~~lanning C~~c~~ommission's function shall be limited to a recommendation to the C~~c~~ouncil. The C~~c~~ommission may transmit their recommendation in any form and a final order need not be formally adopted;

4. A quasi-judicial zoning map amendment shall be decided in the same manner as a quasi-judicial plan amendment;

5. Conditional use pursuant to Chapter 16.60;

6. Variances pursuant to Chapter 16.64;

7. Permits and variances for applications subject to requirements of Chapter 16.18;

8. Type II home occupation pursuant to Chapter 16.46;

9. Site development review for sites subject to the Aurora Design Review Guidelines for Historic District Properties;

10. Telecommunications facilities pursuant to Chapter 16.50;

11. Appeal of a decision made by the Pplanning Ddirector; and

12. Any other matter not specifically assigned to the Pplanning Ddirector, or the Ccity Ccouncil under this title.

D. Upon appeal or recommendation, the Ccity Ccouncil shall conduct a public hearing in the manner prescribed by this chapter and shall have the authority to approve, deny or approve with conditions the following development applications:

1. The formal imposition of plan and zone designations made to lands annexed to the city;

2. Appeals of quasi-judicial plan and zone amendments;

3. Matters referred to the Ccouncil by the Pplanning Ccommission;

4. Review of decisions of the Pplanning Ccommission, whether on the Ccouncil's own motion or otherwise. (Ord. 415 § 7.162.080, 2002)

16.76.090 Decision by the Pplanning director.

A. Pursuant to Section 16.76.080(A), the Pplanning Ddirector is authorized to make certain decisions, and no hearing shall be held unless:

1. An appeal is filed; or

2. The Pplanning Ddirector has an interest in the outcome of the decision, due to some past or present involvement with the applicant, other interested persons or in the property or surrounding property. In such cases, the application shall be treated as if it were filed under Section 16.76.080(C).

B. The decision shall be based on the approval criteria set forth in Section 16.76.120 and applicable chapters of this title.

C. Notice of the decision by the Pplanning Ddirector shall be given as provided by Section 16.76.100 and notice shall be governed by the provisions of Section 16.76.050 and Section 16.76.060.

D. The record shall include:

1. A copy of the application and all supporting information, plans, exhibits, graphics, etc.;

2. All correspondence relating to the application;

3. All information considered by the Pplanning Ddirector in making the decision;

4. The staff report of the Pplanning Ddirector;

5. A list of the conditions, if any are attached to the approval of the application; and

6. A copy of the notice advising of the Pplanning Ddirector's decision, a list of all persons who were given mailed notice and accompanying affidavits.

E. Standing to appeal shall be as provided by Section 16.76.240.

F. The appeal period shall be computed as provided by Section 16.76.250.

G. The method for taking the appeal shall be as provided by subsection 16.76.260(A) and the notice of appeal submitted by an appellant shall be as provided by Section 16.76.290.

H. The hearing on the appeal shall be confined to the prior record as provided in Section 16.76.270.

I. Notice of the final decision on appeal shall be as provided by Section 16.76.220 and Section 16.76.210.

J. No decision by the Pplanning Ddirector may be modified from that set out in the notice except upon being given new notice.

K. The action on the appeal shall be as provided by Section 16.76.330.

L. A decision by the Ccommission on an appeal of a Pplanning Ddirector's decision may be appealed to the Ccouncil.

M. Re-submittal shall be as provided by Section 16.76.130.

(Ord. 415 § 7.162.090, 2002)

16.76.100 Notice of a decision by the Pplanning director.

A. Notice of the Pplanning Ddirector's decision on an application pursuant to Section 16.76.080(A) shall be given by the Pplanning Ddirector in the following manner:

1. Within five days of signing the proposed decision, notice shall be sent by mail to:

a. The applicant and all owners or contract purchasers of record of the property which is the subject of the application;

b. Any governmental agency which is entitled to notice under an intergovernmental agreement entered into with the city which includes provision for such notice; and

c. Any person who requests notice in writing.

B. The Pplanning Ddirector shall cause an affidavit of mailing to be filed and made a part of the administrative record.

C. Notice of a decision by the Pplanning Ddirector shall contain:

1. The nature of the application in sufficient detail to apprise persons entitled to notice of the applicant's proposal and of the decision;

2. The address and general location of the subject property;

3. A statement of where the adopted findings of fact, decision and statement of conditions can be obtained;

4. The date the P-planning D-director's decision will become final;

5. A statement that a person entitled to notice or adversely affected or aggrieved by the decision may appeal the decision:

a. The statement shall explain briefly how an appeal can be made, the deadlines and where information can be obtained, and

b. The statement shall explain that if an appeal is not filed, the decision shall be final;

6. A map showing the location of the property; and

7. A statement that the hearing on an appeal will be confined to the prior record.

(Ord. 415 § 7.162.100, 2002)

16.76.110 Hearings procedures.

A. Unless otherwise provided in the rules of procedure adopted by the Ccity Ccouncil the presiding officer of the Pplanning Ccommission and of the Ccouncil shall have the authority to:

1. Regulate the course, sequence and decorum of the hearing;

2. Dispose of procedural requirements or similar matters;

3. Rule on offers of proof and relevancy of evidence and testimony;

4. Impose reasonable limitations on the number of witnesses heard and set reasonable time limits for oral presentation and rebuttal testimony; and

5. Take such other action appropriate for conduct commensurate with the nature of the hearing;

B. Unless otherwise provided in this title or other ordinances adopted by Council, the presiding officer of the Planning Commission and of the Council shall conduct the hearing as follows:

1. Opening statement. Announce the nature and purpose of the hearing and summarize the rules of conducting the hearing, and if the proceeding is an initial evidentiary hearing before the Planning Commission or the City Council, make a statement that:

a. Lists the applicable substantive criteria;

b. States that testimony and evidence must be directed toward the criteria described in subdivision (1)(a) of this subsection, or to the other criteria in the comprehensive plan or the code which the apply to the decision;

c. States that failure to raise an issue with sufficient specificity to afford the decisionmaker and the parties an opportunity to respond to the issue precludes appeal to the land use board of appeals on that issue.

2. Quasi-Judicial Hearing Process:

a. Recognize parties;

b. Request the Planning Director to present the staff report, to explain any graphic or pictorial displays which are a part of the report, summarize the findings, recommendations and conditions, if any, and to provide such other information as may be requested by the approval authority;

c. Allow the applicant or a representative of the applicant to be heard;

d. Allow parties or witnesses in favor of the applicant's proposal to be heard;

e. Allow parties or witnesses in opposition to the applicant's proposal to be heard;

f. Upon failure of any party to appear, the approval authority shall take into consideration written material submitted by such party;

g. Allow the parties in favor of the proposal to offer rebuttal evidence and testimony limited to rebuttal of points raised;

h. Make a decision pursuant to Section 16.76.120 or take the matter under advisement pursuant to Section 16.76.160.

C. Unless otherwise provided in this title or other ordinances adopted by the Council, the following rules shall apply to the general conduct of the hearing:

1. The approval authority may ask questions at any time before the close of the hearing, and the answers shall be limited to the substance of the question;

2. Parties or the Planning director must receive approval from the approval authority to submit questions directly to other parties or witnesses or the Planning Director;

3. A reasonable amount of time shall be given to persons to respond to questions;

4. No person shall testify without first receiving recognition from the approval authority and stating his or her full name and address;

5. The approval authority may require that testimony be under oath or affirmation;

6. Audience demonstrations such as applause, cheering and display of signs, or other conduct disruptive of the hearing shall not be permitted. Any such conduct may be cause for immediate suspension of the hearing or removal of persons responsible; and

7. No person shall be disorderly, abusive or disruptive of the orderly conduct of the hearing.

(Ord. 415 § 7.162.110, 2002)

16.76.120 Standards for the decision.

A. The decision shall be based on proof by the applicant that the application fully complies with:

1. Applicable policies of the city comprehensive plan and map designation; and

2. The relevant approval standards found in the applicable chapter(s) of this title, the public works design standards, and other applicable implementing ordinances, including but not limited to, the Aurora Design Review Guidelines for Historic District Properties.

3. In the case of a quasi-judicial comprehensive plan map amendment or zone change, the change will not adversely affect the health, safety and welfare of the community.

B. Consideration may also be given to:

1. Proof of a substantial change in circumstances or a mistake in the comprehensive plan or zoning map as it relates to the property which is the subject of the development application; and

2. Factual oral testimony or written statements from the parties, other persons and other governmental agencies relevant to the existing conditions, other applicable standards and criteria, possible negative or positive attributes of the proposal or factors in subsections (A) or (B)(1) of this section.

C. In all cases, the decision shall include a statement in a form addressing the P~~p~~lanning D~~d~~irector's staff report.

D. The approval authority may:

1. Adopt findings and conclusions contained in the staff report;

2. Adopt findings and conclusions of a lower approval authority;

3. Adopt its own findings and conclusions;

4. Adopt findings and conclusions submitted by any party provided all parties have had an opportunity to review the findings and comment on the same; or

5. Adopt findings and conclusions from another source, either with or without modification, having made a tentative decision, and having directed staff to prepare findings for review and to provide an opportunity for all parties to comment on the same.

E. The decision may be for denial, approval or approval with conditions.

1. Conditions may be imposed where such conditions are necessary to:

a. Carry out applicable provisions of the Aurora comprehensive plan;

b. Carry out the applicable implementing ordinances; and

c. Ensure that adequate public services are provided to the development or to ensure that other required improvements are made;

2. Conditions may include, but are not limited to:

a. Minimum lot sizes;

b. Larger setbacks;

c. Preservation of significant natural features;

d. Dedication of easements; and

e. Conveyances and dedications of property needed for public use.

3. Changes, alterations or amendments to the substance of the conditions of approval shall be processed as a new action.

4. Prior to the commencement of development, i.e., the issuance of any permits or the taking of any action under the approved development application, the owner and any contract purchasers of the property which is the subject of the approved application, may be required to sign and deliver to the P~~p~~lanning D~~d~~irector their acknowledgment in a development agreement and consent to such conditions:

a. The M~~m~~ayor shall have the authority to execute the development agreement on behalf of the city;

b. No building permit shall be issued for the use covered by the application until the

executed contract is recorded and filed in the county records; and

c. Such development agreement shall be enforceable against the signing parties, their heirs, successors and assigns by the city by appropriate action in law or suit in equity.

5. A bond in a form acceptable to the city or a cash deposit from the property owners or contract purchasers for the full amount as will ensure compliance with the conditions imposed pursuant to this subsection may be required. Such bond or deposit shall be posted prior to the issuance of a building permit for the use covered by the application.

F. The final decision on the application may grant less than all of the parcel which is the subject of the application.

G. If the Pplanning Commission fails to recommend approval, approval with modification, or denial of an application within sixty (60) days of its first public hearing, the planning director shall:

1. Report the failure to approve a recommendation to the Council; and

2. Cause notice to be given, the matter to be placed on the Council's agenda, a public hearing to be held and a decision to be made by the Council. No further action shall be taken by the Pplanning Commission.

(Ord. 415 § 7.162.120, 2002)

16.76.130 Denial of the application--Re-submittal.

An application which has been denied or an application which was denied and which on appeal has not been reversed by a higher authority, including the land use board of appeals, the land conservation and development commission or the courts, may not be resubmitted for the same or a substantially similar proposal or for the same or substantially similar action for a period of at least twelve (12) months from the date the final city action is made denying the application unless there is a substantial change in the facts or a change in city policy which would change the outcome.

(Ord. 415 § 7.162.130, 2002)

16.76.140 Record may remain open--Admission of new evidence.

A. Unless there is a continuance, the record shall remain open for new evidence for at least seven days at the request of any participant in the initial evidentiary hearing before the Pplanning Commission or the City Council, if the request is made prior to the conclusion of the hearing.

B. When the record is left open to admit new evidence, testimony, or criteria for decision-making, any person may raise new issues which relate to that new material.

(Ord. 415 § 7.162.140, 2002)

16.76.150 Ex parte communications with approval authority.

A. Members of the approval authority shall not:

1. Communicate, directly or indirectly, with any party or representative of a party in connection with any issue involved except upon giving notice and opportunity for all parties to participate; nor

2. Take notice of any communication, report or other materials outside the record prepared by the proponents or opponents in connection with the particular case unless the parties are afforded an opportunity to contest the material so noticed.

B. No decision or action of the Pplanning Commission or Council shall be invalid due to an ex parte contact or bias resulting from an ex parte contact with a member of the decision making body, if the member of the decision making body receiving the contact:

1. Places on the record the substance of any written or oral ex parte communications concerning the decision or action; and

2. Makes a public announcement of the content of the communication and of the parties' right to rebut the substance of the communication made at the first hearing following the communication where action will be considered or taken on the subject to which the communication related.

C. Members of the P~~p~~lanning C~~c~~ommission shall be governed by the provisions of Oregon Revised Statute 227.035 and the provisions of this section.

D. This section shall not apply to P~~p~~lanning D~~d~~irector decisions made under Section 16.76.080(A).

E. A communication between the P~~p~~lanning D~~d~~irector or any city employee and the P~~p~~lanning C~~c~~ommission or C~~c~~ouncil shall not be considered an ex parte contact. (Ord. 415 § 7.162.150, 2002)

16.76.160 Continuation of the hearing.

A. An approval authority may continue the hearing from time to time to gather additional evidence, to consider the application fully or to give notice to additional persons.

B. Unless otherwise provided by the approval authority, no additional notice need be given of a continued hearing if the matter is continued to a date, time and place certain.

(Ord. 415 § 7.162.160, 2002)

16.76.170 Evidence.

A. All evidence offered and not objected to may be received unless excluded by the approval authority on its own motion.

B. Evidence received at any hearing shall be of a quality that reasonable persons rely upon in the conduct of their everyday affairs.

C. No person shall present irrelevant, immaterial or unduly repetitious testimony or evidence.

D. Evidence shall be received and notice may be taken of those facts in a manner similar to that provided for in contested cases before state administrative agencies pursuant to ORS 183.450, except as otherwise provided for in this title.

E. Formal rules of evidence, as used in courts of law, shall not apply.

(Ord. 415 § 7.162.170, 2002)

16.76.180 Judicial notice.

A. The approval authority may take notice of the following:

1. All facts which are judicially noticeable. Such noticed facts shall be stated and made part of the record;

2. The Statewide Planning Goals and regulations adopted pursuant to Oregon Revised Statutes Chapter 197; and

3. The comprehensive plan and other officially adopted plans, implementing ordinances, rules and regulations of the city.

B. Matters judicially noticed need not be established by evidence and may be considered by the approval authority in the determination of the application. (Ord. 415 § 7.162.180, 2002)

16.76.190 Participation in the decision--Voting.

A. In addition to the provision of Oregon Revised Statute 227.035 which applies to P~~p~~lanning commission members or Oregon Revised Statutes Chapter 244 which applies to all members of an approval authority, each member of the approval authority shall be impartial. Any member having any substantial past or present involvement with the applicant, other interested persons, the property or surrounding property, or having a financial interest in the outcome of the proceeding, or having any pre-hearing

contacts, shall state for the record the nature of their involvement or contacts, and shall either:

1. State that they are not prejudiced by the involvement or contacts and will participate and vote on the matter; or

2. State that they are prejudiced by the involvement or contact and will withdraw from participation in the matter.

B. An affirmative vote by a majority of the qualified voting members of the approval authority who are present is required to approve, approve with conditions, or deny an application or to amend, modify, or reverse a decision on appeal.

C. Notwithstanding subsections A and B of this section, no member of an approval authority having a financial interest in the outcome of an application shall take part in proceedings on that application; provided, however, with respect to the C~~c~~ouncil only, a member may vote upon a finding of necessity which shall be placed on the record by the presiding officer.

D. In an appeal, if there is a tie vote, the decision which is the subject of appeal shall stand.

(Ord. 415 § 7.162.190, 2002)

16.76.200 Record of proceeding for public hearings.

A. A verbatim record of the proceeding shall be made by mechanical means (such as a tape recording), and:

1. It shall not be necessary to transcribe testimony except as provided for in Section 16.76.280.

2. The minutes or (if applicable) transcript of testimony, or other evidence of the proceedings, shall be part of the record.

B. All exhibits received shall be marked so as to provide identification upon review.

C. The record shall include:

1. All materials, pleadings, memoranda, stipulations and motions submitted by any party to the proceeding and recorded or considered by the approval authority as evidence;

2. All materials submitted by the P~~p~~lanning D~~d~~irector to the approval authority with respect to the application including in the case of an appeal taken pursuant to Section 16.76.240, the record of the P~~p~~lanning D~~d~~irector's decision as provided by Section 16.76.090;

3. The transcript of the hearing, if requested by the C~~c~~ouncil or a party, or the minutes of the hearing, or other evidence of the proceedings before the approval authority;

4. The written findings, conclusions, decision and, if any, conditions of approval of the approval authority;

5. Argument by the parties or their legal representatives permitted in Section 16.76.270 at the time of review before the C~~c~~ouncil;

6. All correspondence relating to the application; and

7. A copy of the notice which was given as provided by Section 16.76.050, accompanying affidavits and list of persons who were sent mailed notice. (Ord. 415 § 7.162.200, 2002)

16.76.210 Form of the final decision.

A. The final decision shall be a decision which is in writing and which has been signed by the P~~p~~lanning D~~d~~irector.

B. The final decision shall be filed in the records of the P~~p~~lanning D~~d~~irector within ten (10) calendar days after the decision is made by the approval authority, and notice thereof shall be mailed to the applicant and all parties in the action, and shall be available to the approval authority.

(Ord. 415 § 7.162.210, 2002)

16.76.220 Notice of final decision by the Pplanning Cccommission or Cccouncil.

A. Notice of a final decision shall briefly summarize the decision and contain:

1. A statement that all required notices under Section 16.76.040;

2. A statement of where the adopted findings of fact, decision and statement of conditions can be obtained;

3. The date the final decision was filed; and

4. A statement of whether a party to the proceeding may seek appeal of the decision, as appropriate:

a. In the case of a final decision by the Cccouncil, the statement shall explain that this decision is final and how appeal may be heard by a higher authority, or

b. In the case of a final decision by the Pplanning Cccommission, the statement shall explain briefly how an appeal can be taken to the Cccouncil pursuant to Section 16.76.260, the deadlines, and where information can be obtained.

B. Notice of the final decision by the Pplanning Cccommission or Cccouncil shall be mailed to the applicant and to all the parties to the decision, and shall be made available to the members of the Cccouncil. (Ord. 415 § 7.162.220, 2002)

16.76.230 Amending a decision by the Pplanning director.

A. The Pplanning Ddirector may issue an amended decision after the notice of final decision has been issued and prior to the end of the appeal period.

B. A request for an amended decision shall be in writing, and filed with the Pplanning Ddirector not more than eight days after the notice of final decision has been filed.

C. A request for an amended decision may be filed by:

1. The recognized neighborhood planning organization affected by the initial decision;

2. Motion of the Cccity Cccouncil;

3. Motion of the Pplanning Cccommission;

4. The Pplanning Ddirector;

5. Any party entitled to notice of the original decision.

D. The amended decision process shall be limited to one time for each original application.

E. The Pplanning Ddirector shall make the determination as to issuance of an amended decision based on findings that one or more of the following conditions exist:

1. An error or omission was made on the original notice of final decision;

2. The original decision was based on incorrect information and incorrect information may only be considered in administrative actions before the Pplanning Ddirector;

3. New information becomes available during the appeal period which was not available when the decision was made which alters the facts or conditions in the original decision. New information may only be considered in administrative actions before the Pplanning Ddirector.

F. An amended decision shall be processed in accordance with Section 16.76.100. (Ord. 415 § 7.162.230, 2002)

16.76.240 Standing to appeal.

A. In the case of a decision by the Pplanning Ddirector, any person entitled to notice of the decision under this chapter, or any person who is adversely affected or aggrieved by the decision, may file a notice of appeal as provided by Section 16.76.290.

B. In the case of a decision by the Pplanning Cccommission, except for a decision on an appeal of the Pplanning Ddirector's decision, any person shall be

considered a party to a matter, thus having standing to seek appeal, provided:

1. The person appeared before the Pplanning Cecommission orally or in writing:

2. The person was entitled as of right to notice and hearing prior to the decision to be reviewed; or

3. The person is aggrieved or has interests adversely affected by the decision. (Ord. 415 § 7.162.240, 2002)

16.76.250 Computation of appeal period.

A. The length of the appeal period shall be fifteen (15) days from the date of mailing the notice of decision.

B. In computing the length of the appeal period, the day that notice of the decision is mailed shall be excluded and the last day for filing the appeal shall be included unless the last day falls on a legal holiday for the city or on a Saturday, in which case, the last day shall be the next business day. (Ord. 415 § 7.162.250, 2002)

16.76.260 Determination of appropriate appeal body.

A. All appeals of decisions or interpretations made by the Pplanning Ddirector may be appealed to the Pplanning Cecommission or pursuant to Section 16.76.080 except the Cecouncil may, on its own motion, seek to hear the matter by voice vote prior to the effective date of the notice of the decision.

B. Any decision made by the Pplanning Cecommission under this chapter may be reviewed by the Cecouncil by:

1. The filing of a notice of appeal as provided by Section 16.76.290, by any party to the decision by three-thirty p.m. on the last day of the appeal period;

2. The Cecouncil or Pplanning Cecommission, on its own motion, seeking appeal by voice vote prior to the end of the appeal period; or

3. Referral of a matter under Section 16.76.080(D) by the initial hearings body to the Cecouncil, upon closure of the hearing, when the case presents a policy issue which requires Cecouncil deliberation and determination, in which case the Cecouncil shall decide the application.

C. Failure to file an available appeal shall be deemed a failure to exhaust administrative remedies. The filing of available appeals is a condition precedent to appeal to the land use board of appeals. (Ord. 415 § 7.162.260, 2002)

16.76.270 Type of appeal hearing--Limitations of appeal.

A. The appeal of a decision made by the Pplanning Ddirector under Section 16.76.080(A) or Section 16.76.090, shall be confined to the prior record and conducted as if brought under Section 16.76.080(B) or (C).

B. The appeal of a decision of the Pplanning Cecommission to the Cecouncil shall be:

1. Confined to the record of the proceedings unless Cecouncil determines the admission of additional evidence is appropriate;

2. Limited to the grounds relied upon in the notice of appeal and the hearing shall be conducted in accordance with the provisions of this chapter.

C. The subject of written and oral argument. Such written argument shall be submitted not less than five days prior to Cecouncil consideration; and

D. Reviews on the record by Cecouncil of Pplanning Cecommission decisions shall be completed within forty (40) days of when the notice of appeal is filed. (Ord. 415 § 7.162.270, 2002)

16.76.280 Transcripts.

A. The appellant shall be responsible to satisfy all costs incurred for preparation of the transcript. An estimated payment shall be made prior to the preparation of the transcript; any additional actual cost shall be paid prior to the hearing or if the actual cost is less than the estimate the remainder shall be returned.

B. Any party other than the appellant that requests a transcript shall be charged the actual copy costs. (Ord. 415 § 7.162.280, 2002)

16.76.290 Notice of appeal.

A. The notice of appeal shall be filed within the appeal period and contain:

1. A reference to the application sought to be appealed;

2. A statement of the petitioner's standing to the appeal;

3. The specific grounds for the appeal; and

4. The date of the final decision on the action or, in the case of a decision by the P~~p~~lanning D~~d~~irector, the date the decision was filed.

B. The appeal application shall be accompanied by the required fee except as allowed under Section 16.76.300. (Ord. 415 § 7.162.290, 2002)

16.76.300 Fee waivers.

A. Fees for land use applications and appeals of a land use decision shall be waived for a recognized neighborhood planning organization (NPO) if all of the following conditions are met:

1. The appeal or land use application must have been supported by a majority vote of NPO members at a public meeting where a quorum of NPO members was present;

2. A copy of the minutes of the NPO meeting where the appeal or land use application was initiated must be submitted with the appeal or land use application;

3. The appeal or application will be considered valid when conditions (1) and (2) of this subsection are met and all other filing requirements are met; and

4. The NPO chairperson or designated representative shall appear at the next available C~~c~~ity C~~c~~ouncil meeting after the application or appeal is filed to request a waiver. The NPO shall work through the C~~c~~ity R~~r~~ecorder to schedule the item on a C~~c~~ouncil agenda.

B. Council may, on its own motion and by voice vote, waive the appeal fee for other nonprofit organizations. (Ord. 415 § 7.162.300, 2002)

16.76.310 Persons entitled to notice of appeal--Type of notice.

Upon appeal, notice shall be given to parties entitled to notice under Sections 16.76.040 and 16.76.240. (Ord. 415 § 7.162.310, 2002)

16.76.320 Contents of notice of appeal.

Notice shall include those matters provided by Section 16.76.050.
(Ord. 415 § 7.162.320, 2002)

16.76.330 Action on appeal.

A. The appellate authority shall affirm, reverse or modify the decision which is the subject of the appeal; however, the decision shall be made in accordance with the provisions of Section 16.76.120; or

B. Upon the written consent of all parties to extend the one hundred twenty (120) day limit, the appellate authority may remand the matter if it is satisfied that testimony or other evidence could not have been presented or was not available at the time of the initial hearing. In deciding to remand the matter, the appellate authority

shall consider and make findings and conclusions regarding:

1. The prejudice to parties,

2. The convenience or availability of evidence at the time of the initial hearing,

3. The surprise to opposing parties,

4. The date notice was given to other parties as to an attempt to admit, or

5. The competency, relevancy and materiality of the proposed testimony or other evidence. (Ord. 415 § 7.162.330, 2002)

16.76.340 Effective date of final action.

A. Within ten (10) days of the filing of the final order by the C~~c~~ouncil, the P~~p~~lanning D~~d~~irector shall give notice of the final order to all parties to the proceeding, informing them of the date of filing, the decision rendered, and where a copy may be found.

B. Action by the appellate authority on appeal shall be final and effective on the day of mailing notice of the final order.
(Ord. 415 § 7.162.340, 2002)

16.76.350 Revocation of approvals.

A. The hearings authority may, after a hearing conducted pursuant to this chapter, modify or revoke any approval granted pursuant to this chapter for any of the following reasons:

1. A material misrepresentation or mistake of fact made by the applicant in the application or in testimony and evidence submitted, whether such misrepresentation be intentional or unintentional;

2. A failure to comply with the terms and conditions of approval;

3. A failure to use the premises in accordance with the terms of the approval; or

4. A material misrepresentation or mistake of fact or policy by the city in the written or oral report regarding the matter whether such misrepresentation be intentional or unintentional.

B. In the case of a decision made by the P~~p~~lanning D~~d~~irector, the hearing on whether to modify or revoke an approval shall be held by the P~~p~~lanning C~~c~~ommission.

C. A petition for appeal of a revocation or modification may be filed in the same manner as provided by Section 16.76.260.
(Ord. 415 § 7.162.350, 2002)

16.76.360 Expiration and extension of approvals.

A. Approvals issued pursuant to this chapter shall be effective for a period two years from the date of approval.

B. Approval shall lapse if:

1. Substantial construction of the approved plan has not been completed within a two-year period;

2. Construction on the site is a departure from the approved plan.

C. The P~~p~~lanning C~~c~~ommission may, upon written request by the applicant, grant an extension of the approval period not to exceed one year; provided, that:

1. No changes are made on the original approved tentative plan;

2. The applicant has expressed written intent of submitting a final plat within the one-year extension period; and

3. There have been no changes to the applicable comprehensive plan policies and ordinance provisions on which the approval was based.

D. Written notice of the decision regarding an extension of time shall be provided to the applicant.
(Ord. 415 § 7.162.360, 2002)

Chapter 16.78

PROCEDURES FOR DECISION MAKING--LIMITED LAND USE DECISIONS

Sections:

16.78.010 Purpose.
16.78.020 General policies.
16.78.030 Consolidation of proceedings.
16.78.040 Application process.
16.78.050 Time period for decision making.
16.78.060 Approval authority responsibilities.
16.78.070 Notice requirements.
16.78.080 Decision procedure.
16.78.090 Standards for the decision.
16.78.100 Notice of decision.
16.78.110 Record of proceeding.
16.78.120 Appeal.
16.78.130 Modification and revocation of approvals.
16.78.140 Denial of the application--Re-submittal.
16.78.150 Expiration and extension of approvals.

16.78.010 Purpose.

The purpose of this chapter is to establish procedures for limited land use decisions.
(Ord. 415 § 7.164.010, 2002)

16.78.020 General policies.

A. A limited land use decision is a final decision or determination pertaining to a site within the urban growth boundary which concerns: (1) the approval or denial of a subdivision or partition; or (2) the approval or denial of an application based on discretionary standards designed to regulate the physical characteristics of a use permitted outright.

B. A limited land use decision shall be consistent with applicable provisions of the comprehensive plan and this title consistent with ORS 197.195(1).

C. Such decisions may include conditions authorized by law.

D. Approval or denial of a limited land use decision shall be based upon and accompanied by a brief statement that explains the criteria and standards considered relevant to the decision, states the facts relied upon in rendering the decision and explains the justification for the decision based on the criteria, standards and facts set forth.
(Ord. 415 § 7.164.020, 2002)

16.78.030 Consolidation of proceedings.

A. Whenever an applicant requests more than one approval and more than one approval authority is required to decide the applications, the proceedings shall be consolidated so that one approval authority shall decide all applications in one proceeding.

B. The decision shall be made by the approval authority having original jurisdiction over one of the applications under Section 16.78.060 in the following order of preference: the P~~p~~lanning C~~c~~ommission or the P~~p~~lanning D~~d~~irector.

C. Where there is a consolidation of proceedings:

1. The notice shall identify each action to be taken;

2. Separate actions shall be taken on each application;

3. In a consolidated proceeding, the staff report and recommendation provided by the P~~p~~lanning D~~d~~irector shall be consolidated into a single report.

D. Limited land use decisions that are consolidated with quasi-judicial decisions

shall be decided under the quasi-judicial decision making process.

(Ord. 415 § 7.164.030, 2002)

16.78.040 Application process.

A. The applicant for a subdivision or site development review shall be required to meet with the P~~p~~lanning D~~d~~irector for a pre-application conference. Such a requirement may be waived by submission of a written request by the applicant.

B. At the pre-application conference, if conducted, the P~~p~~lanning D~~d~~irector shall:

1. Cite the applicable comprehensive plan policies and map designation;

2. Cite the applicable substantive and procedural ordinance provisions;

3. Provide available technical data and assistance which will aid the applicant as provided by the public works director and city engineer;

4. Identify other policies and regulations that relate to the application; and

5. Identify other opportunities or constraints that relate to the application.

C. Another pre-application conference is required if an application is submitted six months after the pre-application conference.

D. Failure of the P~~p~~lanning D~~d~~irector to provide any of the information required by this chapter shall not constitute a waiver of the standards, criteria or requirements of the applications. Neither the C~~c~~ity nor the P~~p~~lanning D~~d~~irector shall be liable for any incorrect information provided in the pre-application conferences.

E. Applications for approval required under this title may be initiated by application of a record owner of property or contract purchaser.

F. Any persons authorized by this title to submit an application for approval may be represented by an agent authorized in writing to make the application.

G. The application shall be made on forms provided by the city.

H. The application shall include:

1. The information requested on the application form;

2. Narrative addressing appropriate criteria in sufficient detail for review and action;

3. The required fee.

I. The P~~p~~lanning D~~d~~irector may require information in addition to that required by a specific provision of this title, provided the P~~p~~lanning D~~d~~irector determines this information is needed to properly evaluate the proposed development proposal; and the need can be justified on the basis of a special or unforeseen circumstance.

J. The P~~p~~lanning D~~d~~irector may waive the submission of information for a specific requirement, provided the P~~p~~lanning D~~d~~irector finds that specific information is not necessary to properly evaluate the application; or the P~~p~~lanning D~~d~~irector finds that a specific approval standard is not applicable to the application.

K. When, within 30 days of receipt of the application, the P~~p~~lanning D~~d~~irector finds an application is complete, the application shall be deemed complete as of the date of submittal.

L. If an application is incomplete, the P~~p~~lanning D~~d~~irector shall notify the applicant in writing within thirty (30) days of receipt of the application of exactly what information is missing; and allow the applicant to submit the missing information. The application shall be deeded complete:

1. Upon receipt of all missing information; or

2. Upon receipt of some of the missing information and written notice from the applicant that no other information will be provided; or

3. Upon receipt of written notice from the applicant that none of the missing information will be provided.

M. On the 181st day after first being submitted, the application is void if the applicant has been notified of the missing information and fails to submit a completed application.

N. When the missing information is provided, the application shall be deemed complete and at that time the one hundred twenty (120) day time period shall begin.

(Ord. 462 § 1, 2011; Ord. 415 § 7.164.040, 2002)

16.78.050 Time period for decision making.

The city shall take final action on an application for a limited land use decision including the resolution of all appeals within one hundred twenty (120) days after the application is deemed complete, except:

A. The one hundred twenty (120) day period may be extended for a reasonable period of time at the written request of the applicant; and

B. The one hundred twenty (120) day period applies only to a decision wholly within the authority and control of the city.

(Ord. 462 § 1, 2011; Ord. 415 § 7.164.010, 2002)

16.78.060 Approval authority responsibilities.

A. The P~~p~~lanning D~~d~~irector shall have the authority to approve, deny or approve with conditions the following applications:

1. Property line adjustments and re-establishments pursuant to Chapter 16.68;

2. Partitions pursuant to Chapter 16.70;

3. Accessory dwelling units pursuant to Chapter 16.54;

4. Subdivision final plats pursuant to Chapter 16.72;

5. Temporary uses pursuant to Chapter 16.52;

6. Extensions of time for applications previously approved under this chapter;

7. Site Development Review minor modifications pursuant to Chapter 16.58.

B. The P~~p~~lanning C~~c~~ommission shall have the authority to approve, deny or approve with conditions the following applications:

1. Subdivision tentative plats pursuant to Chapter 16.72;

2. Site development review pursuant to Chapter 16.58, except site development review for sites subject to the Aurora Design Review Guidelines for Historic District Properties. All applications subject to the Aurora Design Review Guidelines for Historic District Properties shall be processed in accordance with Chapter 16.76;

3. Temporary structures pursuant to Chapter 16.52.

4. Site development review major modifications pursuant to Chapter 16.58.

C. The decision shall be based on the approval criteria set forth in Section 16.78.090.

(Ord. 462 § 1, 2011; Ord. 415 § 7.164.010, 2002)

16.78.070 Notice requirements.

A. For limited land use decisions by the P~~p~~lanning D~~d~~irector, written notice of the administrative decision shall be provided to owners of property adjacent to the entire contiguous site for which the application is made. The administrative decisions shall be final fourteen (14) days following the date of mailing if no written comments are received.

B. Tentative subdivision plats and site development review shall require notice to owners of property within one hundred (100) feet of the entire contiguous site for which the application is made.

C. Tentative subdivision plats and site development review shall also require notice to be printed in the local newspaper at least fourteen (14) days prior to the meeting clearly identifying the decision that is pending, stating that there is no public hearing and there is a fourteen (14) day period for public written comment regarding the pending limited land use decision and including the expiration date for receipt of written comments.

D. The property owner list shall be compiled from the most recent property tax assessment roll.

E. For purposes of review, this requirement shall be deemed met when the local government can provide an affidavit or other certification that such notice was given. Notice shall also be provided to any neighborhood or community organization recognized by the governing body and whose boundaries include the site.

F. Notices mailed to property owners shall include the following information:

1. A description of the subject property and a general location which shall include tax map designations from the county assessor's office;

2. A map showing the location of the subject property;

3. A description of what the application will allow the applicant to do and what the applicable criteria for the decision are;

4. State that a fourteen (14) day period for submission of written comments is provided prior to the decision;

5. State the place, date and time that the written comments are due;

6. State that copies of all documents or evidence relied upon by the applicant are available for review, the address where copies can be reviewed and that copies can be obtained at cost;

7. A statement that issues which may provide the basis for an appeal must be raised in writing during the comment period and comments must be sufficiently specific give the decision maker an opportunity to respond to the issue;

8. A statement that a limited land use decision does not require an interpretation or the exercise of policy or legal judgement, or a public hearing;

9. A statement that the applicant and any person who submits written comments during the fourteen (14) day period shall receive notice of the decision.

G. The failure of a property owner to receive notice shall not invalidate the action provided a good faith attempt was made to notify all persons entitled to notice.

H. Personal notice is deemed given when the notice is deposited with the United States Postal Service.

I. In computing the length of time that notice is given, the first date notice is given shall be excluded and the day of the hearing or the date on which the appeal period expires shall be included unless the last day falls on any legal holiday or on Saturday, in which case, the last day shall be the next business day.

J. The records of the Marion County assessor's office shall be the official records used for giving notice required in this title, and a person's name and address which is not on file at the time the notice mailing list is initially prepared is not a person entitled to notice.

(Ord. 415 § 7.164.070, 2002)

16.78.080 Decision procedure.

The P~~p~~lanning C~~c~~ommission limited land use decision shall be conducted as follows:

A. Request the P~~p~~lanning D~~d~~irector to present the staff report, to explain any graphic or pictorial displays which are a part of the report, summarize the findings, recommendations and conditions, if any, and

to provide such other information as may be requested by the approval authority;

B. Allow the applicant or a representative of the applicant discuss the application and respond to the staff report;

C. Request the P~~p~~lanning D~~d~~irector read all written comments received into the record;

D. Allow the applicant to respond to all written comments;

E Make a decision pursuant to Section 16.78.090 or continue the decision to gather additional evidence or to consider the application further.

(Ord. 462 § 1, 2011; Ord. 415 § 7.164.080, 2002)

16.78.090 Standards for the decision.

A. The decision shall be based on proof by the applicant that the application fully complies with:

1. The city comprehensive plan; and

2. The relevant approval standards found in the applicable chapter(s) of this title and other applicable implementing ordinances.

B. Consideration may also be given to:

1. Proof of a substantial change in circumstances; and

2. Factual written statements from the parties, other persons and other governmental agencies relevant to the existing conditions, other applicable standards and criteria, possible negative or positive attributes of the proposal or factors in subsections (A) or (B)(1) of this section.

C. In all cases, the decision shall include findings of fact addressing all applicable criteria.

D. The decision may be for denial, approval or approval with conditions. Conditions may be imposed where such conditions are necessary to:

1. Carry out applicable provisions of the Aurora comprehensive plan;

2. Carry out the applicable implementing ordinances;

3. Ensure that adequate public services are provided to the development or to ensure that other required improvements are made;

4. Prior to the commencement of development, i.e., the issuance of any permits or the taking of any action under the approved development application, the owner and any contract purchasers of the property which is the subject of the approved application may be required to sign and deliver to the P~~p~~lanning D~~d~~irector their acknowledgment in a development agreement and consent to such conditions:

a. The M~~m~~ayor shall have the authority to execute such development agreements on behalf of the city,

b. No building permit shall be issued for the use covered by the application until the executed contract is recorded in the county records, and

c. Such development agreements shall be enforceable against the signing parties, their heirs, successors and assigns by the city by appropriate action in law or suit in equity;

5. A bond in a form acceptable to the city or a cash deposit from the property owners or contract purchasers for the full amount as will ensure compliance with the conditions imposed may be required. Such bond or deposit shall be posted prior to the issuance of a building permit for the use covered by the application.

E. The final decision on the application may grant less than all of the parcel which is the subject of the application.

(Ord. 415 § 7.164.090, 2002)

16.78.100 Notice of decision.

A. All limited land use decisions require a notice of decision.

B. The applicant and any person who submits written comments during the

fourteen (14) day period shall be entitled to receive the notice of decision.

C. The notice of decision shall include:

1. A brief summary of the decision;

2. A statement of where the adopted findings of fact, decision and statement of conditions can be obtained;

3. The date the final decision was made; and

4. A statement of whether a party to the proceeding may seek appeal of the decision, as appropriate.

D. Within ten (10) calendar days after the decision is made by the approval authority, the final decision shall be filed in the records of the P~~p~~lanning D~~d~~irector and notice thereof shall be mailed to the applicant and all parties in the action and shall be available to the approval authority.

(Ord. 419 § 18C, 2002; Ord. 415 § 7.164.100, 2002)

16.78.110 Record of proceeding.

The record shall include:

A. A copy of the application and all supporting information, plans, exhibits, graphics, etc.;

B. All testimony, evidence and correspondence relating to the application;

C. All information considered by the approval authority in making the decision;

D. The staff report of the P~~p~~lanning D~~d~~irector;

E. A list of the conditions, if any are attached to the approval of the application; and

F. A copy of the notice advising of the decision which was given pursuant to Section 16.78.100 and accompanying affidavits, and a list of all persons who were given mailed notice.

G. The staff report and notice of decision for limited land use decisions by the P~~p~~lanning D~~d~~irector may be combined as one document.

(Ord. 415 § 7.164.110, 2002)

16.78.120 Appeal.

A. Standing to Appeal. Any person shall be considered a party to a matter, thus having standing to seek appeal, provided the person submitted written comments to the approval authority during the fourteen (14) day period prior to the decision or the person was entitled as of right to notice prior to the decision to be reviewed.

B. Computation of Appeal Period.

1. The length of the appeal period shall be fifteen (15) days from the final decision.

2. In computing the length of the appeal period, the day of the decision is mailed shall be excluded and the last day for filing the appeal shall be included unless the last day falls on a legal holiday for the city or on a Saturday, in which case, the last day shall be the next business day.

C. Determination of Appropriate Appeal Body.

1. Any decision made by the P~~p~~lanning D~~d~~irector under this chapter may be reviewed by the P~~p~~lanning C~~c~~ommission by:

a. The filing of a notice of appeal and payment of required fees by any party to the decision by five p.m. on the last day of the appeal period,

b. The C~~c~~ouncil or P~~p~~lanning C~~c~~ommission, on its own motion, seeking appeal by voice vote prior to the end of the appeal period; or

2. Any decision made by the P~~p~~lanning C~~c~~ommission under this chapter, may be reviewed by the C~~c~~ouncil by:

a. The filing of a notice of appeal and payment of required fees by any party to the decision before five p.m. on the last day of the appeal period,

b. The C~~c~~ouncil or P~~p~~lanning C~~c~~ommission, on its own motion, seeking

appeal by voice vote prior to the end of the appeal period; or

3. Failure to file an available appeal shall be deemed a failure to exhaust administrative remedies. The filing of available appeals is a condition precedent to appeal to the land use board of appeals.

D. The notice of appeal shall be filed within the appeal period and contain:

1. A reference to the application sought to be appealed;

2. A statement of the petitioner's standing to the appeal;

3. The specific grounds for the appeal;

4. The date of the decision on the action;

5. The applicable fees.

E. The appeal hearing shall be confined to the prior record.

F. Upon appeal, notice shall be given to parties who are entitled to notice under Section 16.78.070.

G. The appellate authority shall affirm, reverse or modify the decision which is the subject of the appeal; however, the decision shall be made in accordance with the provisions of Section 16.78.090; or upon the written consent of all parties to extend the one hundred twenty (120) day limit, the appellate authority may remand the matter if it is satisfied that testimony or other evidence could not have been presented or was not available at the time of the initial decision. In deciding to remand the matter, the appellate authority shall consider and make findings and conclusions regarding:

1. The prejudice to parties;

2. The convenience or availability of evidence at the time of the initial hearing;

3. The surprise to opposing parties;

4. The date notice was given to other parties as to an attempt to admit; or

5. The competency, relevancy and materiality of the proposed testimony or other evidence.

(Ord. 419 § 18B, 2002; Ord. 415 § 7.164.120 (part), 2002)

16.78.130 Modification and revocation of approvals.

The approval authority may modify or revoke any approval granted pursuant to this chapter for any of the following reasons:

A. A material misrepresentation or mistake of fact made by the applicant in the application or in testimony and evidence submitted, whether such misrepresentation be intentional or unintentional;

B. A failure to comply with the terms and conditions of approval;

C. A material misrepresentation or mistake of fact or policy by the city in the written or oral report regarding the matter whether such misrepresentation be intentional or unintentional.

(Ord. 415 § 7.164.120(part), 2002)

16.78.140 Denial of the application--Re-submittal.

An application which has been denied or an application which was denied and which on appeal has not been reversed by a higher authority, including the land use board of appeals, the land conservation and development commission or the courts, may not be resubmitted for the same or a substantially similar proposal or for the same or substantially similar action for a period of at least twelve (12) months from the date the final city action is made denying the application unless there is a substantial change in the facts or a change in city policy which would change the outcome.

(Ord. 415 § 7.164.130, 2002)

16.78.150 Expiration and extension of approvals.

A. Approval under this chapter shall be effective for a period of two years from the date of approval.

B. The approval for a property line adjustment, partition or subdivision shall lapse if:

1. A property line adjustment map or final plat has not been signed and recorded with the County within a two-year period;

2. The property line adjustment map or final plat does not substantially conform to the approved tentative plan.

C. Site development approvals shall lapse if:

1. A building permit has not been issued within two years from the date of approval;

2. Construction on the site is a departure from the approved plan.

D. The P~~p~~lanning D~~d~~irector may, upon written request by the applicant, grant a one-time extension of the approval period not to exceed one year provided, that:

1. No changes are made on the original approval;

2. The applicant has expressed written intent of submitting a final map, plat and/or building permit application within the one-year extension period; and

3. There have been no changes to the applicable comprehensive plan policies and ordinance provisions on which the approval was based.

E. Following the first one-year extension by the Planning Director, the applicant may submit a request to the Aurora Planning Commission so that the Planning Commission may transmit a recommendation to the Aurora City Council for additional one-year approval extensions.

F. Applications for Approval Extension

1. The written extension request must be received by the City at least 30 days prior to expiration of the approval.

2. The Planning Director shall provide notice consistent with the required mailed notice for the original application of the opportunity to comment on the extension request. Written comments from parties who received the notice shall be received by the Planning Director within 15-days after the notice was mailed.

3. Written notice of the decision regarding an extension of time shall be provided to the applicant and to parties who submitted written comments within the 15-day comment period. The parties who receive a written notice of the decision may appeal the decision to the Planning Commission provided the City Recorder receives a written appeal of the decision within 15-days after the extension decision was mailed. The written appeal shall state the reasons why the decision is appealed.

(Ord. 462 § 1, 2011)

Chapter 16.80

AMENDMENTS TO THE CODE, COMPREHENSIVE PLAN, AND MAPS

Sections:

16.80.010 Purpose.
16.80.020 Legislative amendments.
16.80.030 Quasi-judicial amendments.
16.80.040 Record of amendments.

16.80.010 Purpose.

The purpose of this chapter is to set forth the standards and purposes governing legislative and quasi-judicial amendments to this title, the acknowledged comprehensive plan, and the related maps.
(Ord. 415 § 7.15.010, 2002)

16.80.020 Legislative amendments.

Legislative amendments shall be in accordance with the procedures and standards set forth in Chapter 16.74. A legislative application may be approved or denied.
(Ord. 415 § 7.15.020, 2002)

16.80.030 Quasi-judicial amendments.

Quasi-judicial amendments shall be in accordance with the procedures set forth in Chapter 16.76. The C~~c~~ouncil shall decide the applications on the record. A quasi-judicial application may be approved, approved with conditions or denied.
(Ord. 415 § 7.15.030, 2002)

16.80.040 Record of amendments.

The C~~c~~ity R~~r~~ecorder shall maintain a record of amendments to the text and maps of this title and the comprehensive plan in a format convenient for the use of the public and in accordance with Chapter 16.06.
(Ord. 415 § 7.15.040, 2002)

Chapter 16.82

ENFORCEMENT

Sections:

16.82.010 Enforcement.
16.82.020 Penalties for violations.
16.82.030 Injunctive relief.
16.82.040 Evidence.
16.82.050 Abatement.

16.82.010 Enforcement.

It shall be the duty of the C~~c~~ity R~~r~~ecorder, or other designee of the C~~c~~ity C~~c~~ouncil, to enforce this title. All city and county staff vested with the duty or authority to issue permits shall conform to the provisions of this title and shall issue no permit, certificate or license for any use, building or purpose, which violates or fails to comply with conditions or standards imposed by this title or conditions of approval adopted in compliance with this title. Any permit, certificate or license issued in conflict with the provisions of this title, intentionally or otherwise, shall be void. (Ord. 415 § 7.20.010, 2002)

16.82.020 Penalties for violations.

Upon failure to comply with any provisions of this title, or with any restrictions or conditions imposed hereunder, any further permits and may be withheld or the C~~c~~ouncil may withdraw C~~c~~ity utility services until correction is made. Notwithstanding any such action taken by the C~~c~~ouncil, any person, firm or corporation who violates, disobeys, omits, neglects, or refuses to comply with any of the provisions of this title, or who resists the enforcement of such provisions, shall be subject to civil penalties of no more than five hundred dollars ($500.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense. (Ord. 415 § 7.20.020, 2002)

16.82.030 Injunctive relief.

The foregoing sanctions shall not be exclusive, and where the public health, safety, or general welfare will be better served thereby, the C~~c~~ity R~~r~~ecorder or other C~~c~~ouncil designee may institute such proceedings for injunctive relief against a continuing violation as may be authorized by the statutes of the state of Oregon. Failure of a condition or object to satisfy or conform to the requirements of this chapter is declared a public nuisance and such conditions or objects may be abated by any of the procedures set forth in the Aurora Public Nuisance Ordinance. In the enforcement of provisions prohibiting nuisances caused by odor, sound, vibration and the like, the C~~c~~ity R~~r~~ecorder may seek injunction against the specific devise, activity or practice causing the nuisance. (Ord. 415 § 7.20.030, 2002)

16.82.040 Evidence.

In any prosecution for causing or maintaining any condition of use of, activity on, or construction, moving or maintaining any structure on, any premises in violation of this title, a person in possession or control of the premises, as owner or lessee at the time of the violation, or continuance thereof, shall be presumed to the person who constructed, moved, caused or maintained the unlawful activity use, condition or structure. This presumption shall be rebuttable by production of evidence to the contrary and either the city or the defendant in such prosecution shall have the right to show that the offense was committed by some person other than, or in addition to, an owner or lessee or other person(s) in possession or control of the premises, but this shall not be construed as relieving a

person in possession and control of property from any prosecution imposed upon him or her in this title. That a person is taxed according to the records of the Marion County assessor shall be prima facie proof that the person is in possession or control of the premises. Where the premises on which the violation is committed are commercial or industrial premises on which a sign is situated identifying the commercial or industrial activity conducted thereon, the same shall constitute prima facie proof that the person is in possession or control of the premises as owner or lessee, any agent, manager, employee or other person who actually committed the violation. (Ord. 415 § 7.20.040, 2002)

16.82.050 Abatement.

Written notice of an abatement hearing shall be given twenty (20) days prior to the hearing and mailed to the last known address of the owner of the property as shown by the county assessor's records. Following a determination by the C~~c~~ouncil of the action to be taken, an abatement order shall be served upon the owner or responsible person by registered mail to the last known address of the owner of the property as shown by the county assessor's records. The owner or responsible person shall have such period of time after service of the order but no less than thirty (30) days, as the governing body may deem to be reasonably necessary to accomplish the requirements of the order. The abatement order shall contain a notice to the property owner or other person served, that the city or Marion County shall not be responsible for the condition or storage of the component parts of, or personal property situated with, the structure following abatement by the city or the county.

Where the courts of Marion County or the state of Oregon cannot secure effective jurisdiction over the person or persons responsible for the violation of this title because of their absence of the responsible person or persons from the county or the state, or where the governing body deems it important to the public interest that the unlawful structure or condition be removed and such removal or correction is not completed within the time prescribed in the abatement order, the city administrator or other C~~c~~ouncil designee shall cause such abatement, going upon the premises with such persons or equipment as may be necessary. The governing body shall thereafter, by ordinance, assess the cost of abatement and shall include administrative overhead, legal fees, court costs, direct costs of physically abating the nuisance, and any additional costs required to protect and preserve private or public property and health, safety and general welfare of the community. The lien or assessment shall be enforced in the same manner as street improvement liens.

The remedy of abatement shall be in addition to and not in lieu of the other remedies prescribed in this chapter. (Ord. 415 § 7.20.050, 2002)

Memorandum

MID-WILLAMETTE VALLEY COUNCIL OF GOVERNMENTS
105 HIGH STREET S. E. SALEM, OREGON 97301-3667
TELEPHONE: (503)588-6177 FAX: (503)588-6094

TO: Aurora Planning Commission
FROM: Renata Wakeley, City Planner
RE: Legislative Amendment 2014-01 (LA-14-01)
DATE: January 28, 2014 for presentation at February 4, 2014 hearing

REQUESTED ACTION

The Planning Commission's options for taking action on Legislative Amendment 14-01 include the following:

A. Adopt the findings in the staff report and recommend that the City Council adopt Legislative Amendment 14-01:
    1. As presented by staff; or
    2. As amended by the Planning Commission (stating revisions)

B. Recommend that the City Council take no action on Legislative Amendment 14-01

C. Continue the public hearing:
    1. To a time certain, or
    2. Indefinitely

BACKGROUND

Aurora's Municipal Code does not currently provide provisions for mobile food units in the commercial core. Several residents and business owners have expressed interest in the addition of mobile food units (food carts) to their existing commercial eating and drinking establishments to help offset costs of running a restaurant and as a means to supplement seating areas with less costly and impactful "walk away" food services. The Planning Commission and staff reviewed the development code over several months in 2013 and submitted an application in January 2014 to initiate public hearings on the proposed revisions. The Planning Commission is also recommending to decrease the "trigger" for initiating site development review applications, clarify several minor areas of the code for ease of reference and/or correct citations, and amend the medium density residential zone to include residential care facilities as recommended by the Fair Housing Council of Oregon.

The following section of the Aurora Municipal Code (AMC) are proposed for amendment:

- Miscellaneous pages throughout Title 16 correcting title references to elected official and staff such as Mayor, Planning Commission, City Council, Planning Director, etc.
- 16.02 Definitions; 16.12 Residential Low/Moderate Density; 16.13 Accessory Buildings; 16.22Historic Commercial Overlay; 16.52 Temporary Uses; 16.58 Site Development Review; and 16.60 Conditional Uses.

Legislative Amendment 14-01 includes the adoption of the draft code amendments to the Aurora Municipal Code. The revisions are attached in a **bold** and ~~strikethrough~~ format for review purposes (see Exhibit A).

FINDING OF FACT AND CONCLUSIONS

The Aurora Planning Commission, after careful consideration of the testimony and evidence in the record, adopts the following Findings of Fact and Conclusions:

1. In accordance with the post-acknowledgement plan amendment process set forth in Oregon Revised Statute 197.610(1), the City Planner submitted the draft proposed amendments to the Oregon Department of Land Conservation and Development on March 18, 2011, which was 45-days prior to the first evidentiary hearing on January 8, 2014.
2. Amendments to the Code, Comprehensive Plan, and/or Maps are considered Legislative Amendments subject to 16.80.20. Legislative Amendments shall be made in accordance with the procedures and standards set forth in AMC 16.74-Procedures for Decision Making-Legislative. A legislative application may be approved or denied.
3. AMC 16.74.030 outlines notice requirements. Ten days prior to the first evidentiary hearing, the City sent written notice of the hearing to the applicant and affected neighborhood planning organizations. At least ten days prior to the first public hearing, the City published notice in a newspaper of general circulation- Canby Herald on January 22, 2014.
4. Proposed amendments for consideration of legislative changes to the provisions of the Comprehensive Plan, implementing ordinances and maps are a legislative action, not a quasi- judicial action. Section 16.74 calls for amendments to the Development Code to be processed as a recommendation by the planning commission and the decision by the city council.
5. AMC 16.74.060 includes the standards for decision of Legislative Amendments as outlined under FINDINGS below.
6. The Planning Commission reviewed the proposed legislative amendments at the February 4, 2014 public hearing.

FINDINGS

A. The recommendation by the planning commission and the decision by the council shall be based on consideration of the following factors:

1. Any applicable statewide planning goals and guidelines adopted under Oregon Revised Statutes (ORS) Chapter 197;

FINDINGS: Goal 1, Citizen Involvement: A public hearing on the proposed amendments was held before the Planning Commission on February 4, 2014 and a second hearing will be held by the City Council on February 11, 2014. Notice was posted at City Hall, published in the Canby Herald, and provide to the Historic Review Board. The staff report was available for review one week prior to the planning commission and city council hearings. This is consistent with City procedures. Staff finds Goal 1 is met.

Goal 2, Land Use Planning: The proposal does not involve exceptions to the Statewide Goals. Adoption actions are consistent with the acknowledged AMC for process. Goal 2 generally supports clear and thorough local procedures. Staff finds Goal 2 is met.

Goal 3, Agricultural Lands and Goal 4, Forest lands: Goals 3 are not found to be applicable. The proposal does not involve or affect farm or forest lands.

Goal 5, Open Spaces, Scenic and Historic Areas, and Natural Resources intent is to "protect natural resources and conserve scenic and historic areas and open spaces" and requires procedures for the establishment of historic areas and inventories. As the proposed code updates does not amend or alter the historic area or inventory. staff finds Goal 5 does not apply.

Goal 6, Air, Water and Land Resource Quality: Goal 6 is not applicable. The proposal does not address Goal 6 resources.

Goal 7, Natural Hazards: Goal 7 is not applicable. The proposal does not address Goal 7 resources.

Goal 8, Recreational Needs: Goal 8 is not applicable. The proposal does not address Goal 8 resources.

Goal 9, Economic Development: The draft code amendments respond to a need identified within the business community. The proposed code amendments are not found to deter employment or business opportunities. Staff finds Goal 9 is met.

Goal 10, Housing: Goal 10 is not applicable. The proposal does not address Goal 10 issues.

Goal 11, Public Facilities and Services: Goal 11 is not applicable. The proposal does not address Goal 11 issues.

Goal 12, Transportation: The draft code amendment encourages economic development in the commercial core and a pedestrian friendly atmosphere. The code amendments attempt to provide a system that allows for economic development of existing eating and drinking establishments while also reducing the need for a lengthy application process when traffic impacts are determined to increase by less than 25 percent. Staff finds Goal 12 issues are met.

Goal 13, Energy Conservation: Goal 13 is not applicable. The proposal does not address Goal 13 resources.

Goal 14, Urbanization: Goal 14 is not applicable. The proposal does not address Goal 14 issues.

ORS 197 does not include specific notice requirements for legislative processes but the City met all notice requirements under AMC for Legislative Amendments. ORS 227.186, more commonly known as Measure 56 notice, does not apply as the proposed amendments do not reduce permissible uses of properties in the affected zones.

2. Any federal or state statutes or rules found applicable;

FINDINGS: Staff finds the adoption actions are consistent with Oregon Revised Statute 197.610(1) for notice to the Department of Land Conservation and Development. Measure 56 notice was not required as the proposed amendments do not reduce permissible uses on commercial lands. Applicants for mobile food units will be required to show compliance with County and Oregon Health Department rules, such as a food handlers permit. Staff finds this criterion is met.

3. The applicable comprehensive plan policies and map; and

The following Comprehensive Plan Goals and associated policies were found to be applicable to this application:

Goal 1- Citizen Participation: Develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.

FINDINGS: A public hearing on the proposed amendments was held before the Planning Commission on February 4, 2014 and a second hearing will be held by the City Council on February 11, 2014. Notice was posted at City Hall, published in the Canby Herald, and provide to the Historic Review Board. The staff report was available for review one week prior to the planning commission hearing. This is consistent with City procedures. Staff finds this condition is met.

Goal 2- Planning Process: Establish a land use planning process and policy framework document (comprehensive plan) as a basis for all decisions and actions related to use of land and ensure an adequate factual base for such activities.

FINDINGS: Adoption actions are consistent with the acknowledged AMC. Staff finds this condition is met.

Goal 9- Economic Policies

3. *Foster commercial and industrial activities to meet the expressed needs of City residents.*

FINDINGS: The draft code amendments respond to a need identified within the business community. The proposed code amendments are not found to deter employment or business opportunities but rather to support commercial activities and increased economic opportunities. Staff finds this condition is met.

Goal 12- Transportation Policies

2. *Encourage transportation improvements which support the community's economic development and create a pedestrian friendly atmosphere.*
3. *Establish a street system which is consistent with orderly growth, minimizes conflicts with adjacent land uses, and provides a circulation system which is safe and efficient for both vehicles and pedestrians.*

FINDINGS: The draft code amendments respond to a need identified within the business community and encourage a pedestrian friendly atmosphere by allowing for the provision of mobile food units that are accessible to pedestrian activities and encourage economic activities within the historic core which has sufficient infrastructure to support vehicle and pedestrian demands. Location of mobile food units will be upon property's already serving as eating and drinking establishments. The reduction of change in use applications or new businesses that would be subject to land use application (Site Development Review) due to traffic impacts is found to be waived on minimal impacts to traffic increases and therefore, Staff finds this condition is met.

4. The applicable provisions of the implementing ordinances.

FINDINGS: The Historic Commercial Overlay are intended to provide areas for retail, eating and drinking establishments, and service uses. The provision for allowing mobile food carts in not contradictory but rather complementary to permitted uses within the zone. The purpose of the code revision is to permit and encourage additional commercial activity, vending, and a pedestrian oriented environmental that creates a visually attractive atmosphere and promotes commerce. Staff finds the proposed code amendments can be established in compliance with the development requirements of the Aurora Municipal Code.

B. Consideration may also be given to proof of a substantial change in circumstances, a mistake, or inconsistency in the comprehensive plan or implementing ordinance which is the subject of the application.

FINDINGS: Staff does not find a change in circumstance, mistake or inconsistency in the comprehensive plan or implementing ordinances. This criterion does not apply.

Encl: EXHIBIT A- Title 16
EXHIBIT B- Historic Review Board review comments, as summarized by staff

January 29, 2014

Planning Commission
City Council
City of Aurora

Re: Municipal Code Chapter 16.22.030 Conditional Uses in Historic Commercial Overlay

Dear Commissioners,

Please enter our comments into the record for both hearings as applicable regarding Section C. Food carts.

It is the consensus of the Historic Review Board that there are a few more items that need to be addressed and included in the code in order to protect the visual integrity of the historic district. We take particular care of our buildings to insure that they reflect the goals of the national historic district. It seems only appropriate that any added "portables" do not detract from these goals. You could end up with some real eyesores.

- Food cart vehicles are to be fully motorized and operational (so they can be driven off when not in use).
- Food cart vehicles are to be in good exterior condition (not dented, paint off, broken windows, etc.).
- What about the "storage" of the food cart vehicle itself? We are not in favor of a food cart being parked, unused, for any particular length of time. It might be easy for a food vendor with available space to park the cart there perpetually. Perhaps a minimum weekly usage?
- A daily requirement to pick up any garbage and trash and to store any such material out of visual view.
- Will you address special events (including Aurora Colony Days) that the business community might find they want extra food? Would they be able to be parked in the downtown park or on city streets with a permit/fee to the city?

Other comments from the board that are unrelated to visuals but do reflect on the district. (Suggestions were made based on recent comments at an OLCC meeting on food carts attended by Commissioner Gayle Abernathy.)

- Hours of operation should be regulated so that any exterior seating would not interfere with the peace of the neighborhoods/need for extra police patrol, etc.
- It was suggested that food and drink might be limited to the type that is sold within the main restaurant although this might defeat the creative use of these popular units.

Thank you,
Historic Review Board
Gayle Abernathy, chairman

Dear Aurora City Planning Commission:

By way of this letter, I am affirming my interest in joining the Aurora City Planning Commission. My family moved to Aurora in July 2011 and are very happy to call it home. Ronan, my husband, works for Mentor Graphics in Wilsonville, and I am an attorney, who practices Family Law and Estate Planning at the Portland and Prineville offices of Stahancyk, Kent & Hook, PC. Ronan and I have two brilliant (if I say so myself) boys, Daithi, age 2, and Lorcan, age 4. Daithi and Lorcan attend preschool at the Twigs 'n' Berries farm school. We thoroughly enjoy Aurora and would like to get more involved in the community.

Having attended last month's meeting, I found the discussion to be engaging and look forward to being part of the planning for Aurora's future. While in law school I was an extern for the Crook County Counsel and dipped my toes in local government. Joining the Planning Commission will offer me an opportunity become more involved in our community and further my interest in local government. In turn, I believe I would be a valuable addition to the planning commission. I am resourceful, engaged, and excited by the opportunity.

Thank you for your consideration.

Very truly yours,

Mercedes Rhoden-Feely

Submitted by:
Mercedes Rhoden-Feely
21513 Liberty St. NE
Aurora, OR 97201
(503) 804-5446

Chapter 16.14

C COMMERCIAL ZONE

Sections:

16.14.010 Purpose.
16.14.020 Permitted uses.
16.14.030 Conditional uses.
16.14.040 Development standards.
16.14.050 Open inventory display.

16.14.010 Purpose.

The commercial zone (C) is intended to provide areas for retail and service commercial uses. (Ord. 415 § 7.60.010, 2002)

16.14.020 Permitted uses.

In the commercial zone, except as specifically stated in Section 16.14.050 activities shall be conducted within an enclosed building or structure and are subject to site development review, Chapter 16.58. Only the following uses and their accessory uses are permitted outright:

1. Auction house, auditorium, exhibit hall, community building, club, lodge hall, fraternal organization or church;
2. Bed and breakfast inn, hotel or motel;
3. Bicycle sales or repair;
4. Cultural exhibits and library services;
5. Day care facility licensed by state;
6. Dwelling units located on the second floor of the commercial structure;
7. Eating and drinking establishments;
8. Financial, insurance and real estate offices;
9. General retail and convenience sales, except adult bookstores;
10. Indoor and outdoor recreation and entertainment facilities, except adult entertainment or adult motion picture theaters;
11. Laundry or dry cleaning establishments;
12. Medical or dental services including labs;
13. Mini storage, with or without a caretaker dwelling;
14. Minor impact utilities;
15. Motor vehicle, farm implement, boat or trailer rental, sales or services including body repairs when repairs are conducted wholly within an enclosed structure;
16. Mortuary, funeral home, crematorium or taxidermy;
17. Nurseries, greenhouses, and landscaping supplies not requiring outside storage for items other than plant materials including wholesale or retail;
18. Parking structure or lot or storage garage;
19. Printing or publishing plant;
20. Professional and administrative offices;
21. Public safety and support facilities;

22. Public transportation passenger terminal or taxi stand;

23. Repair services for household and personal items, excluding motorized vehicles;

24. Sales, grooming and veterinary offices or animal hospitals without outside pens or noise beyond property line;

25. Schools;

26. Service station, retail vehicle fuel sales or car wash when not located adjacent to a residential zone.

27. Single-family residence, provided it is an accessory use and cannot be sold separately;

28. Studios, including art, photography, dance, and music. (Ord. 415 § 7.60.020, 2002)

16.14.030 Conditional uses.

The following uses and their accessory uses may be permitted when authorized by the planning commission in accordance with the requirements of Chapter 16.60, other relevant sections of this title and any conditions imposed by the planning commission:

A. Adult bookstore, adult entertainment or adult motion picture theaters, provided no sales area or activity is ever visible from the building exterior, all building setbacks shall be a minimum of thirty-five (35) feet from any property line and shall be screened and buffered in accordance with Section 16.38.040. In addition, location shall be at least one thousand five hundred (1,500) feet, measured in a straight line, from any of the following:

1. Residential district,
2. Public or private nursery, preschool, elementary, junior, middle or high school,
3. Day care facility, nursery school, convalescent home, home for the aged, resident care facility or hospital,
4. Public library,
5. Community recreation,
6. Church,
7. Historic district or historic structure;

B. Home occupations (Type II) subject to Chapter 16.46;

C. Major impact utilities, including telecommunications facilities subject to Chapter 16.50, provided that a ten (10) foot perimeter setback containing both externally visible landscaping meeting buffering standards and solid screening surrounds the property;

D. Retail or wholesale business with not more than fifty (50) percent of the floor area used for the manufacturing, processing or compounding of products in a manner which is clearly incidental to the primary business conducted on the premises;

E. Wholesaling, storage and distribution. (Ord. 415 § 7.60.030, 2002)

16.14.040 Development standards.

A. There is no minimum size for lots or parcels served by municipal sewer. Minimum lot sizes for lots or parcels without municipal sewer shall be as determined by the county sanitarian.

B. There is no minimum lot width or depth.

C. Unless otherwise specified, the minimum setback requirements are as follows:

1. There is no minimum front yard setback except as required for buffering of off street parking in accordance with Section 16.38.050;

2. On corner lots and the rear of through lots the minimum setback for the side facing the street shall be ten (10) feet;

3. No side or rear yard setback shall be required except twenty (20) feet screened and buffered in accordance with Chapter 16.38 shall be required where abutting a residential zoning district;

D. No building shall exceed forty-five (45) feet in height. Within one hundred (100) feet of a residential zone, no building shall exceed thirty-five (35) feet in height. All buildings greater than thirty-five (35) feet in height are subject to Chapter 16.24.

E. Parking shall be in accordance with Chapter 16.42.

F. Landscaping shall be in accordance with Chapter 16.38.

G. All properties located outside the designated historic commercial overlay and the historic residential overlay and adjacent to Highway 99 or Ehlen Road shall be collectively referenced as "gateway properties." The standards of Chapter 16.56 shall apply to all aspects of the site including, but not limited to, structural facade, yard and landscaping that are immediately adjacent to and visible from Highway 99 or Ehlen Road.

H. Additional requirements shall include any applicable section of this title. (Ord. 415 § 7.60.040, 2002)

16.14.050 Open inventory display.

A. All business, service, repair, processing, storage or merchandise displays shall be conducted wholly within an enclosed building except for the following:

1. Off-street parking or loading;

2. Drive-through windows;

3. Display, for resale purposes, of large on road vehicles which could not be reasonably displayed wholly within a building; specifically automobiles, boats, logging equipment, farm machinery, heavy machinery and trucks. Such displays shall be limited to a maximum of five vehicles which shall be movable at all times and cannot be deemed as discarded or dismantled. All vehicles displayed for sale must be located on a paved surface;

4. Displays for resale purposes of small merchandise which shall be removed to the interior of the business after business hours;

5. Display, for resale purposes, of live trees, shrubs and other plants.

6. Outdoor seating in relation to permitted eating or drinking establishment subject to 16.34.060.D.

B. All open inventory displays shall be maintained, kept clean, and be situated in conformance with all applicable city ordinances. (Ord. 464, 2011; Ord. 415 § 7.60.050, 2002)

From: Joseph Schaefer
Sent: Tuesday, January 28, 2014 1:20 PM
To: recorder
Cc: mayor
Subject: For the PC Packet re Marijuana

Kelly:

Please print out this link and include the document (a proposed bill) in the PC packet.

Thanks

https://olis.leg.state.or.us/liz/2014R1/Downloads/MeasureDocument/SB1531/Introduced

Senate Bill 1531

Sponsored by Senators HANSELL, MONROE; Senators BAERTSCHIGER JR, BOQUIST, CLOSE, FERRIOLI, GIROD, JOHNSON, KNOPP, KRUSE, OLSEN, THOMSEN, WHITSETT, WINTERS, Representatives ESQUIVEL, JENSON, THOMPSON, WHISNANT (at the request of Association of Oregon Counties and League of Oregon Cities) (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced.**

Specifies that governing body of city or county may regulate or restrict operation of medical marijuana facility, prohibit registration of medical marijuana facility, or regulate, restrict or prohibit storing or dispensing of marijuana by facility legally authorized to store or dispense marijuana.

Declares emergency, effective March 1, 2014.

A BILL FOR AN ACT

Relating to marijuana facilities; creating new provisions; amending ORS 475.314; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 2 of this 2014 Act is added to and made a part of ORS chapter 475.

SECTION 2. Notwithstanding ORS 633.738, the governing body of a city or county may adopt ordinances that:

(1) Regulate or restrict the operation of medical marijuana facilities registered under ORS 475.314 that are located in the area subject to the jurisdiction of the city or county;

(2) Prohibit the registration under ORS 475.314 of medical marijuana facilities that are located in the area subject to the jurisdiction of the city or county; or

(3) Regulate, restrict or prohibit within the area subject to the jurisdiction of the city or county the storing or dispensing of marijuana by a facility authorized to store or dispense marijuana under the laws of this state.

SECTION 3. ORS 475.314 is amended to read:

475.314. (1) The Oregon Health Authority shall establish by rule a medical marijuana facility registration system to authorize the transfer of usable marijuana and immature marijuana plants from:

(a) A registry identification cardholder, the designated primary caregiver of a registry identification cardholder, or a person responsible for a marijuana grow site to the medical marijuana facility; or

(b) A medical marijuana facility to a registry identification cardholder or the designated primary caregiver of a registry identification cardholder.

(2) The registration system established under subsection (1) of this section must require a medical marijuana facility to submit an application to the authority that includes:

(a) The name of the person responsible for the medical marijuana facility;

(b) The address of the medical marijuana facility;

(c) Proof that the person responsible for the medical marijuana facility is a resident of Oregon;

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

(d) Documentation, as required by the authority by rule, that demonstrates the medical marijuana facility meets the qualifications for a medical marijuana facility as described in subsection (3) of this section; and

(e) Any other information that the authority considers necessary.

(3) To qualify for registration under this section, a medical marijuana facility:

(a) Must be located in an area that is zoned for commercial, industrial or mixed use or as agricultural land**;** [*and*]

(b) May not be located at the same address as a marijuana grow site **or located in an area that is subject to the jurisdiction of a city or county that has prohibited the registration of medical marijuana facilities pursuant to section 2 of this 2014 Act**;

[*(b)*] **(c)** Must be registered as a business or have filed a pending application to register as a business with the Office of the Secretary of State;

[*(c)*] **(d)** Must not be located within 1,000 feet of the real property comprising a public or private elementary, secondary or career school attended primarily by minors;

[*(d)*] **(e)** Must not be located within 1,000 feet of another medical marijuana facility; and

[*(e)*] **(f)** Must comport with rules adopted by the authority related to:

(A) Installing a minimum security system, including a video surveillance system, alarm system and safe; and

(B) Testing for pesticides, mold and mildew and the processes by which usable marijuana and immature marijuana plants that test positive for pesticides, mold or mildew must be returned to the registry identification cardholder, the cardholder's designated primary caregiver or the cardholder's registered grower.

(4)(a) The authority shall conduct a criminal records check under ORS 181.534 of a person whose name is submitted as the person responsible for a medical marijuana facility under subsection (2) of this section.

(b) A person convicted for the manufacture or delivery of a controlled substance in Schedule I or Schedule II may not be the person responsible for a medical marijuana facility for five years from the date the person is convicted.

(c) A person convicted more than once for the manufacture or delivery of a controlled substance in Schedule I or Schedule II may not be the person responsible for a medical marijuana facility.

(5) If a person submits the application required under subsection (2) of this section, the medical marijuana facility identified in the application meets the qualifications for a medical marijuana facility described in subsection (3) of this section and the person responsible for the medical marijuana facility passes the criminal records check required under subsection (4) of this section, the authority shall register the medical marijuana facility and issue the person responsible for the medical marijuana facility proof of registration. The person responsible for the medical marijuana facility shall display the proof of registration on the premises of the medical marijuana facility at all times when usable marijuana or immature marijuana plants are being transferred as described in subsection (1) of this section.

(6)(a) A registered medical marijuana facility may receive usable marijuana or immature marijuana plants only from a registry identification cardholder, designated primary caregiver or person responsible for a marijuana grow site if the registered medical marijuana facility obtains authorization, on a form prescribed by the authority by rule and signed by a registry identification cardholder, to receive the usable marijuana or immature marijuana plants.

(b) A registered medical marijuana facility shall maintain:

(A) A copy of each authorization form described in paragraph (a) of this subsection; and

(B) Documentation of each transfer of usable marijuana or immature marijuana plants.

(7) A medical marijuana facility registered under this section may possess usable marijuana and immature marijuana plants in excess of the limits imposed on registry identification cardholders and designated primary caregivers under ORS 475.320.

(8) The authority may inspect:

(a) The premises of an applicant for a medical marijuana facility or a registered medical marijuana facility to ensure compliance with the qualifications for a medical marijuana facility described in subsection (3) of this section; and

(b) The records of a registered medical marijuana facility to ensure compliance with subsection (6)(b) of this section.

(9)(a) A registry identification cardholder or the designated primary caregiver of a registry identification cardholder may reimburse a medical marijuana facility registered under this section for the normal and customary costs of doing business, including costs related to transferring, handling, securing, insuring, testing, packaging and processing usable marijuana and immature marijuana plants and the cost of supplies, utilities and rent or mortgage.

(b) A medical marijuana facility may reimburse a person responsible for a marijuana grow site under this section for the normal and customary costs of doing business, including costs related to transferring, handling, securing, insuring, testing, packaging and processing usable marijuana and immature marijuana plants and the cost of supplies, utilities and rent or mortgage.

(10) The authority may revoke the registration of a medical marijuana facility registered under this section for failure to comply with ORS 475.300 to 475.346**,** [*or*] rules adopted under ORS 475.300 to 475.346 **or ordinances adopted by a city or county having jurisdiction over the area in which the medical marijuana facility is located pursuant to section 2 of this 2014 Act**. The authority may release to the public a final order revoking a medical marijuana facility registration.

(11) The authority shall adopt rules to implement this section, including rules that:

(a) Require a medical marijuana facility registered under this section to annually renew that registration; and

(b) Establish fees for registering and renewing registration for a medical marijuana facility under this section.

SECTION 4. This 2014 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2014 Act takes effect March 1, 2014.

Medical marijuana in Oregon: Local governments cannot regulate dispensaries, state lawyers say

Noelle Crombie | ncrombie@oregonian.com By **Noelle Crombie | ncrombie@oregonian.com**

Email the author | Follow on Twitter

on November 05, 2013 at 5:23 PM, updated November 05, 2013 at 7:11 PM

The state, not local governments, may regulate medical marijuana outlets in Oregon, **according to an analysis** by attorneys for the Legislature.

Rep. Peter Buckley, D-Ashland, asked the **Office of Legislative Counsel** to review House Bill 3460 to determine **whether local governments can regulate dispensaries**. Buckley co-sponsored the bill, which the Legislature passed and signed into law in August. The bill creates a state registry of medical marijuana retailers.

In response to the law, the Medford City Council last month unanimously approved a change to the city's business license ordinance, stipulating that establishments must be in compliance with local, state and federal laws. Marijuana is outlawed under federal law. Other Oregon communities are considering similar restrictions.

Tuesday's legal analysis, signed by Charles D. Taylor, senior deputy legislative counsel, concluded that HB 3460 "preempts most municipal laws specifically targeting medical marijuana facilities."

"We conclude that while a municipality may not be required to violate federal law to comply with a conflicting state law, a municipality may not act contrary to state law merely because the municipality believes that the action will better carry out the purposes and objectives of federal law," Taylor wrote.

The opinion, though not binding, is a significant political win for medical marijuana advocates who have long sought statewide retail access to the drug.

"I think its message is clear: It's inappropriate for cities or counties under both laws to just try and force them out and not allow them at all," said Geoff Sugerman, a political consultant who helped draft the bill. "What it says is these facilities have been approved by the state and they have a right to exist."

He said he hopes the opinion spurs discussions between city officials concerned about these establishments and entreprenuers interested in opening them.

"A city who might go down the path of flat-out banning dispensaries now faces a real legitimate legal challenge, and it's probably not cost effective to fight this battle in court," Sugerman said.

Scott Winkels, a lobbyist for the League of Oregon Cities, said he doesn't think the opinion changes anything.

"They are not our attorney," he said. "Our read is different, and we think the cities maintain local control on this."

Leland Berger, a Portland attorney and medical marijuana advocate, said Medford and other cities can either spend money battling dispensaries "or municipalities can make the decision to create a revenue stream from compassionate business owners."

"I would hope that Legislative Counsel's opinion would give those city attorneys pause about the advice they have given municipalities," he said.

The state's new so-called GMO law, which allows only the state to regulate plant seeds, factored into Taylor's analysis. The law, which wasn't aimed at cannabis production and sales, prohibits local governments from regulating commercial plant seeds and products.

Supporters of the bill, approved last month, want to prevent local governments from imposing their own rules on genetically modified crops.

According to Taylor's analysis, the GMO law "may present some barriers to municipal attempts to specifically target medical marijuana facilities."

He wrote under the new law a city could require medical marijuana retailers to comply with a local business license ordinance "but could not enact or enforce the city ordinance in a manner that is intended to prevent or materially inhibit, or has the effect of preventing or materially inhibiting, the growing, possession or distribution of medical marijuana by a registered facility."

-- Noelle Crombie

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MEMORANDUM

TO: BEH Clients

FROM: Shane Abma
David Doughman
Beery Elsner & Hammond, LLP

SUBJECT: Medical Marijuana Dispensaries

DATE: November 1, 2013

This August the Oregon Legislature passed House Bill 3460, which requires medical marijuana facilities ("dispensaries") to register with the Oregon Health Authority after satisfying certain requirements. The governor signed the bill and its substantive provisions go into effect on March 1, 2014.

1. Background

In 1998, Oregon became one of the first states to legalize medical marijuana. The Oregon Medical Marijuana Program ("OMMP") is administered by the Oregon Health Authority ("OHA") and allows registered "cardholders" to legally consume marijuana for medical purposes. The law originally allowed cardholders to grow their own marijuana or obtain it from other registered growers if they were not able to grow it themselves. To help facilitate getting medical marijuana to cardholders, in recent years a number of medical marijuana "dispensaries" have opened across the state. These dispensaries obtain marijuana from registered growers and act as "retail" marketplaces for cardholders who find it difficult to obtain their medical marijuana.

The dispensaries are neither registered cardholders nor registered growers; consequently they have existed in a legal gray area. In order to address the uncertain legality of these dispensaries and to regulate them at the state level, the Oregon Legislature passed HB 3460, which establishes uniform registration and licensing procedures. Oregon now joins 15 other states that have legalized dispensaries for medical marijuana.

II. Medical Marijuana Dispensaries Must Now Register with OHA and Meet Certain Criteria

HB 3460 requires a dispensary to register with the state and meet certain requirements. These include requirements for location, pesticide/mold testing, tracking, security measures and criminal background checks. In order to obtain a "proof of registration," the dispensary must submit an application to the OHA listing certain identifiers (name, address, etc.), obtain a business license from the Secretary of State, and submit documentation demonstrating that it has met the state registration requirements of HB 3460.

A. *Notable Requirements*

1. Location Restrictions

The dispensaries must be located in an area zoned for commercial, industrial or mixed uses or as agricultural land. They must be at least 1000 feet from schools and 1000 feet from any other registered dispensary. No dispensary may be located at the same address as a registered medical marijuana grow site.

2. Criminal Background Checks & Security Requirements

The OHA is required to conduct a criminal background check of any person listed as the person responsible for the dispensary. A prior conviction for certain controlled substance crimes prohibits a person from operating a dispensary for five years from the date of conviction, and those with multiple convictions are banned completely from registering. Dispensary operators must be Oregon residents.

Additionally, dispensaries must install security systems with certain elements, including video surveillance, alarms and a safe.

III. Local Regulation of Dispensaries

HB 3460 does not explicitly prohibit local jurisdictions from refusing to allow medical marijuana dispensaries within their jurisdiction. However, if a local government attempted to ban dispensaries completely, doing so may be subject to a challenge that the local government action is preempted by state law.

Some local jurisdictions may wish to further regulate these dispensaries beyond what is set forth in HB 3460. Prior case law has upheld the ability of a local jurisdiction to enhance state regulations at the local level, provided that the local regulation is not preempted by the state and

does not conflict with the state regulations. Naturally, the more burdensome the local regulation, the more likely it is to be challenged. This is especially so if the regulation has the effect of prohibiting what the state otherwise allows because the local requirements cannot be met (for example, requiring that dispensaries be located 50,000 feet from any school, when in fact no such location would qualify).

In sum, a complete ban on dispensaries at the local level may invite litigation and, given the language in HB 3460, it may be difficult to defend. Of course, federal law continues to classify marijuana as a "Schedule 1" drug (i.e. has a high potential for abuse and has no medically accepted uses). Unfortunately, it is not clear whether a local government can rely on marijuana's status under federal law to prohibit a dispensary.

However, we believe enhanced regulation at the local level that does not conflict with state requirements is an option for localities that wish to further regulate these dispensaries.

We encourage you to contact us to discuss this important issue. Please note that if your community wishes to regulate dispensaries beyond what is contained in state law, it should begin the legislative process in the near future in order to have regulations in place before March 1, 2014.

Enrolled
House Bill 3460

Sponsored by Representative BUCKLEY, Senator PROZANSKI; Representative FREDERICK, Senator DINGFELDER

CHAPTER .....

AN ACT

Relating to medical marijuana; creating new provisions; amending ORS 475.302, 475.304, 475.309, 475.320, 475.323 and 475.331; limiting expenditures; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 2 of this 2013 Act is added to and made a part of ORS 475.300 to 475.346.

SECTION 2. (1) The Oregon Health Authority shall establish by rule a medical marijuana facility registration system to authorize the transfer of usable marijuana and immature marijuana plants from:

(a) A registry identification cardholder, the designated primary caregiver of a registry identification cardholder, or a person responsible for a marijuana grow site to the medical marijuana facility; or

(b) A medical marijuana facility to a registry identification cardholder or the designated primary caregiver of a registry identification cardholder.

(2) The registration system established under subsection (1) of this section must require a medical marijuana facility to submit an application to the authority that includes:

(a) The name of the person responsible for the medical marijuana facility;

(b) The address of the medical marijuana facility;

(c) Proof that the person responsible for the medical marijuana facility is a resident of Oregon;

(d) Documentation, as required by the authority by rule, that demonstrates the medical marijuana facility meets the qualifications for a medical marijuana facility as described in subsection (3) of this section; and

(e) Any other information that the authority considers necessary.

(3) To qualify for registration under this section, a medical marijuana facility:

(a) Must be located in an area that is zoned for commercial, industrial or mixed use or as agricultural land and may not be located at the same address as a marijuana grow site;

(b) Must be registered as a business or have filed a pending application to register as a business with the Office of the Secretary of State;

(c) Must not be located within 1,000 feet of the real property comprising a public or private elementary, secondary or career school attended primarily by minors;

(d) Must not be located within 1,000 feet of another medical marijuana facility; and

(e) Must comport with rules adopted by the authority related to:

(A) Installing a minimum security system, including a video surveillance system, alarm system and safe; and

(B) Testing for pesticides, mold and mildew and the processes by which usable marijuana and immature marijuana plants that test positive for pesticides, mold or mildew must be returned to the registry identification cardholder, the cardholder's designated primary caregiver or the cardholder's registered grower.

(4)(a) The authority shall conduct a criminal records check under ORS 181.534 of a person whose name is submitted as the person responsible for a medical marijuana facility under subsection (2) of this section.

(b) A person convicted for the manufacture or delivery of a controlled substance in Schedule I or Schedule II may not be the person responsible for a medical marijuana facility for five years from the date the person is convicted.

(c) A person convicted more than once for the manufacture or delivery of a controlled substance in Schedule I or Schedule II may not be the person responsible for a medical marijuana facility.

(5) If a person submits the application required under subsection (2) of this section, the medical marijuana facility identified in the application meets the qualifications for a medical marijuana facility described in subsection (3) of this section and the person responsible for the medical marijuana facility passes the criminal records check required under subsection (4) of this section, the authority shall register the medical marijuana facility and issue the person responsible for the medical marijuana facility proof of registration. The person responsible for the medical marijuana facility shall display the proof of registration on the premises of the medical marijuana facility at all times when usable marijuana or immature marijuana plants are being transferred as described in subsection (1) of this section.

(6)(a) A registered medical marijuana facility may receive usable marijuana or immature marijuana plants only from a registry identification cardholder, designated primary caregiver or person responsible for a marijuana grow site if the registered medical marijuana facility obtains authorization, on a form prescribed by the authority by rule and signed by a registry identification cardholder, to receive the usable marijuana or immature marijuana plants.

(b) A registered medical marijuana facility shall maintain:

(A) A copy of each authorization form described in paragraph (a) of this subsection; and

(B) Documentation of each transfer of usable marijuana or immature marijuana plants.

(7) A medical marijuana facility registered under this section may possess usable marijuana and immature marijuana plants in excess of the limits imposed on registry identification cardholders and designated primary caregivers under ORS 475.320.

(8) The authority may inspect:

(a) The premises of an applicant for a medical marijuana facility or a registered medical marijuana facility to ensure compliance with the qualifications for a medical marijuana facility described in subsection (3) of this section; and

(b) The records of a registered medical marijuana facility to ensure compliance with subsection (6)(b) of this section.

(9)(a) A registry identification cardholder or the designated primary caregiver of a registry identification cardholder may reimburse a medical marijuana facility registered under this section for the normal and customary costs of doing business, including costs related to transferring, handling, securing, insuring, testing, packaging and processing usable marijuana and immature marijuana plants and the cost of supplies, utilities and rent or mortgage.

(b) A medical marijuana facility may reimburse a person responsible for a marijuana grow site under this section for the normal and customary costs of doing business, including costs related to transferring, handling, securing, insuring, testing, packaging and processing usable marijuana and immature marijuana plants and the cost of supplies, utilities and rent or mortgage.

(10) The authority may revoke the registration of a medical marijuana facility registered under this section for failure to comply with ORS 475.300 to 475.346 or rules adopted under ORS 475.300 to 475.346. The authority may release to the public a final order revoking a medical marijuana facility registration.

(11) The authority shall adopt rules to implement this section, including rules that:

(a) Require a medical marijuana facility registered under this section to annually renew that registration; and

(b) Establish fees for registering and renewing registration for a medical marijuana facility under this section.

<u>SECTION 3.</u> ORS 475.302 is amended to read:

475.302. As used in ORS 475.300 to 475.346:

(1) "Attending physician" means a physician licensed under ORS chapter 677 who has primary responsibility for the care and treatment of a person diagnosed with a debilitating medical condition.

(2) "Authority" means the Oregon Health Authority.

(3) "Debilitating medical condition" means:

(a) Cancer, glaucoma, agitation due to Alzheimer's disease, positive status for human immunodeficiency virus or acquired immune deficiency syndrome, or treatment for these conditions;

(b) A medical condition or treatment for a medical condition that produces, for a specific patient, one or more of the following:

(A) Cachexia;

(B) Severe pain;

(C) Severe nausea;

(D) Seizures, including but not limited to seizures caused by epilepsy; or

(E) Persistent muscle spasms, including but not limited to spasms caused by multiple sclerosis; or

(c) Any other medical condition or treatment for a medical condition adopted by the authority by rule or approved by the authority pursuant to a petition submitted pursuant to ORS 475.334.

(4)(a) "Delivery" has the meaning given that term in ORS 475.005.

(b) "Delivery" does not include transfer of:

(A) Marijuana by a registry identification cardholder to another registry identification cardholder if no consideration is paid for the transfer[.];

(B) Usable marijuana or immature marijuana plants from a registry identification cardholder, the designated primary caregiver of a registry identification cardholder or a marijuana grow site to a medical marijuana facility registered under section 2 of this 2013 Act; or

(C) Usable marijuana or immature marijuana plants from a medical marijuana facility registered under section 2 of this 2013 Act to a registry identification cardholder or the designated primary caregiver of a registry identification cardholder.

(5) "Designated primary caregiver" means an individual 18 years of age or older who has significant responsibility for managing the well-being of a person who has been diagnosed with a debilitating medical condition and who is designated as such on that person's application for a registry identification card or in other written notification to the authority. "Designated primary caregiver" does not include the person's attending physician.

(6) "Marijuana" has the meaning given that term in ORS 475.005.

(7) "Marijuana grow site" means a location where marijuana is produced for use by a registry identification cardholder and that is registered under the provisions of ORS 475.304.

(8) "Medical use of marijuana" means the production, possession, delivery, or administration of marijuana, or paraphernalia used to administer marijuana, as necessary for the exclusive benefit of a person to mitigate the symptoms or effects of the person's debilitating medical condition.

(9) "Production" has the meaning given that term in ORS 475.005.

(10) "Registry identification card" means a document issued by the authority that identifies a person authorized to engage in the medical use of marijuana and the person's designated primary caregiver, if any.

(11) "Usable marijuana" means the dried leaves and flowers of the plant Cannabis family Moraceae, and any mixture or preparation thereof, that are appropriate for medical use as allowed in ORS 475.300 to 475.346. "Usable marijuana" does not include the seeds, stalks and roots of the plant.

(12) "Written documentation" means a statement signed by the attending physician of a person diagnosed with a debilitating medical condition or copies of the person's relevant medical records.

SECTION 4. ORS 475.304 is amended to read:

475.304. (1) The Oregon Health Authority shall establish by rule a marijuana grow site registration system to authorize production of marijuana by a registry identification cardholder, a designated primary caregiver who grows marijuana for the cardholder or a person who is responsible for a marijuana grow site. The marijuana grow site registration system adopted must require a registry identification cardholder to submit an application to the authority that includes:

(a) The name of the person responsible for the marijuana grow site;

(b) The address of the marijuana grow site;

(c) The registry identification card number of the registry cardholder for whom the marijuana is being produced; and

(d) Any other information the authority considers necessary.

(2) The authority shall issue a marijuana grow site registration card to a registry identification cardholder who has met the requirements of subsection (1) of this section.

(3) A person who has been issued a marijuana grow site registration card under this section must display the registration card at the marijuana grow site at all times when marijuana is being produced.

(4) A marijuana grow site registration card must be obtained and posted for each registry identification cardholder for whom marijuana is being produced at a marijuana grow site.

(5) All usable marijuana, plants, seedlings and seeds associated with the production of marijuana for a registry identification cardholder by a person responsible for a marijuana grow site are the property of the registry identification cardholder and must be provided to the registry identification cardholder, **or, if the marijuana is usable marijuana or an immature marijuana plant, transferred to a medical marijuana facility registered under section 2 of this 2013 Act,** upon request.

(6)(a) The authority shall conduct a criminal records check under ORS 181.534 of any person whose name is submitted as a person responsible for a marijuana grow site.

(b) A person convicted of a Class A or Class B felony under ORS 475.752 to 475.920 for the manufacture or delivery of a controlled substance in Schedule I or Schedule II may not be issued a marijuana grow site registration card or produce marijuana for a registry identification cardholder for five years from the date of conviction.

(c) A person convicted more than once of a Class A or Class B felony under ORS 475.752 to 475.920 for the manufacture or delivery of a controlled substance in Schedule I or Schedule II may not be issued a marijuana grow site registration card or produce marijuana for a registry identification cardholder.

(7) A registry identification cardholder or the designated primary caregiver of the cardholder may reimburse the person responsible for a marijuana grow site for the costs of supplies and utilities associated with the production of marijuana for the registry identification cardholder. No other costs associated with the production of marijuana for the registry identification cardholder, including the cost of labor, may be reimbursed.

(8) The authority may adopt rules imposing a fee in an amount established by the authority for registration of a marijuana grow site under this section.

SECTION 5. ORS 475.309 is amended to read:

475.309. (1) Except as provided in ORS 475.316, 475.320 and 475.342, a person engaged in or assisting in the medical use of marijuana is excepted from the criminal laws of the state for possession, delivery or production of marijuana, aiding and abetting another in the possession, delivery or production of marijuana or any other criminal offense in which possession, delivery or production of marijuana is an element if the following conditions have been satisfied:

(a)**(A)** The person holds a registry identification card issued pursuant to this section, has applied for a registry identification card pursuant to subsection (9) of this section, is the designated primary caregiver of the cardholder or applicant, or is the person responsible for a marijuana grow site that is producing marijuana for the cardholder and is registered under ORS 475.304; and

[*(b)*] **(B)** The person who has a debilitating medical condition, the person's primary caregiver and the person responsible for a marijuana grow site that is producing marijuana for the cardholder and is registered under ORS 475.304 are collectively in possession of, delivering or producing marijuana for medical use in amounts allowed under ORS 475.320[.]; **or**

(b) The person is responsible for or employed by a medical marijuana facility registered under section 2 of this 2013 Act and does not commit any of the acts described in this subsection anywhere other than at the medical marijuana facility.

(2) The Oregon Health Authority shall establish and maintain a program for the issuance of registry identification cards to persons who meet the requirements of this section. Except as provided in subsection (3) of this section, the authority shall issue a registry identification card to any person who pays a fee in the amount established by the authority and provides the following:

(a) Valid, written documentation from the person's attending physician stating that the person has been diagnosed with a debilitating medical condition and that the medical use of marijuana may mitigate the symptoms or effects of the person's debilitating medical condition;

(b) The name, address and date of birth of the person;

(c) The name, address and telephone number of the person's attending physician;

(d) The name and address of the person's designated primary caregiver, if the person has designated a primary caregiver at the time of application; and

(e) A written statement that indicates whether the marijuana used by the cardholder will be produced at a location where the cardholder or designated primary caregiver is present or at another location.

(3) The authority shall issue a registry identification card to a person who is under 18 years of age if the person submits the materials required under subsection (2) of this section, and the custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age signs a written statement that:

(a) The attending physician of the person under 18 years of age has explained to that person and to the custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age the possible risks and benefits of the medical use of marijuana;

(b) The custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age consents to the use of marijuana by the person under 18 years of age for medical purposes;

(c) The custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age agrees to serve as the designated primary caregiver for the person under 18 years of age; and

(d) The custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age agrees to control the acquisition of marijuana and the dosage and frequency of use by the person under 18 years of age.

(4) A person applying for a registry identification card pursuant to this section may submit the information required in this section to a county health department for transmittal to the authority. A county health department that receives the information pursuant to this subsection shall transmit the information to the authority within five days of receipt of the information. Information received by a county health department pursuant to this subsection shall be confidential and not subject to disclosure, except as required to transmit the information to the authority.

(5)(a) The authority shall verify the information contained in an application submitted pursuant to this section and shall approve or deny an application within thirty days of receipt of the application.

(b) In addition to the authority granted to the authority under ORS 475.316 to deny an application, the authority may deny an application for the following reasons:

(A) The applicant did not provide the information required pursuant to this section to establish the applicant's debilitating medical condition and to document the applicant's consultation with an attending physician regarding the medical use of marijuana in connection with such condition, as provided in subsections (2) and (3) of this section;

(B) The authority determines that the information provided was falsified; or

(C) The applicant has been prohibited by a court order from obtaining a registry identification card.

(c) Denial of a registry identification card shall be considered a final authority action, subject to judicial review. Only the person whose application has been denied, or, in the case of a person under the age of 18 years of age whose application has been denied, the person's parent or legal guardian, shall have standing to contest the authority's action.

(d) Any person whose application has been denied may not reapply for six months from the date of the denial, unless so authorized by the authority or a court of competent jurisdiction.

(6)(a) If the authority has verified the information submitted pursuant to subsections (2) and (3) of this section and none of the reasons for denial listed in subsection (5)(b) of this section is applicable, the authority shall issue a serially numbered registry identification card within five days of verification of the information. The registry identification card shall state:

(A) The cardholder's name, address and date of birth;

(B) The date of issuance and expiration date of the registry identification card;

(C) The name and address of the person's designated primary caregiver, if any;

(D) Whether the marijuana used by the cardholder will be produced at a location where the cardholder or designated primary caregiver is present or at another location; and

(E) Any other information that the authority may specify by rule.

(b) When the person to whom the authority has issued a registry identification card pursuant to this section has specified a designated primary caregiver, the authority shall issue an identification card to the designated primary caregiver. The primary caregiver's registry identification card shall contain the information provided in paragraph (a) of this subsection.

(7)(a) A person who possesses a registry identification card shall:

(A) Notify the authority of any change in the person's name, address, attending physician or designated primary caregiver.

(B) If applicable, notify the designated primary caregiver of the cardholder, [*and*] the person responsible for the marijuana grow site that produces marijuana for the cardholder **and any person responsible for a medical marijuana facility that transfers usable marijuana or immature marijuana plants to the cardholder under section 2 of this 2013 Act** of any change in status including, but not limited to:

(i) The assignment of another individual as the designated primary caregiver of the cardholder;

(ii) The assignment of another individual as the person responsible for a marijuana grow site producing marijuana for the cardholder; or

(iii) The end of the eligibility of the cardholder to hold a valid registry identification card.

(C) Annually submit to the authority:

(i) Updated written documentation from the cardholder's attending physician of the person's debilitating medical condition and that the medical use of marijuana may mitigate the symptoms or effects of the person's debilitating medical condition; and

(ii) The name of the person's designated primary caregiver if a primary caregiver has been designated for the upcoming year.

(b) If a person who possesses a registry identification card fails to comply with this subsection, the card shall be deemed expired. If a registry identification card expires, the identification card of any designated primary caregiver of the cardholder shall also expire.

(8)(a) A person who possesses a registry identification card pursuant to this section and who has been diagnosed by the person's attending physician as no longer having a debilitating medical condition or whose attending physician has determined that the medical use of marijuana is contraindicated for the person's debilitating medical condition shall return the registry identification card and any other associated Oregon Medical Marijuana Program cards to the authority within 30 calendar days of notification of the diagnosis or notification of the contraindication.

(b) If, due to circumstances beyond the control of the registry identification cardholder, a cardholder is unable to obtain a second medical opinion about the cardholder's continuing eligibility to use medical marijuana before the 30-day period specified in paragraph (a) of this subsection has expired, the authority may grant the cardholder additional time to obtain a second opinion before requiring the cardholder to return the registry identification card and any associated cards.

(9) A person who has applied for a registry identification card pursuant to this section but whose application has not yet been approved or denied, and who is contacted by any law enforcement officer in connection with the person's administration, possession, delivery or production of marijuana for medical use may provide to the law enforcement officer a copy of the written documentation submitted to the authority pursuant to subsection (2) or (3) of this section and proof of the date of mailing or other transmission of the documentation to the authority. This documentation shall have the same legal effect as a registry identification card until such time as the person receives notification that the application has been approved or denied.

(10)(a) A registry identification cardholder has the primary responsibility of notifying the **designated** primary caregiver [*and*], **the** person responsible for the marijuana grow site that produces marijuana for the cardholder **and any person responsible for a medical marijuana facility that transfers usable marijuana or immature marijuana plants to the cardholder under section 2 of this 2013 Act** of any change in status of the cardholder.

(b) If the authority is notified by the cardholder that a primary caregiver or person responsible for a marijuana grow site has changed, the authority shall notify the primary caregiver or the person responsible for the marijuana grow site by mail at the address of record confirming the change in status and informing the caregiver or person **responsible for the marijuana grow site** that their card is no longer valid and must be returned to the authority.

(11) The authority shall revoke the registry identification card of a cardholder if a court has issued an order that prohibits the cardholder from participating in the medical use of marijuana or otherwise participating in the Oregon Medical Marijuana Program under ORS 475.300 to 475.346. The cardholder shall return the registry identification card to the authority within seven calendar days of notification of the revocation. If the cardholder is a patient, the patient shall return the patient's card and all other associated Oregon Medical Marijuana Program cards.

(12) The authority shall revoke the registration of a medical marijuana facility registered under section 2 of this 2013 Act if a court has issued an order that prohibits the person responsible for the medical marijuana facility from participating in the Oregon Medical Marijuana Program under ORS 475.300 to 475.346.

[*(12)*] **(13)** The authority and employees and agents of the authority acting within the course and scope of their employment are immune from any civil liability that might be incurred or imposed for the performance of or failure to perform duties required by this section.

SECTION 3. ORS 475.320 is amended to read:

475.320. (1)(a) A registry identification cardholder or the designated primary caregiver of the cardholder may possess up to six mature marijuana plants and 24 ounces of usable marijuana.

(b) Notwithstanding paragraph (a) of this subsection, if a registry identification cardholder has been convicted of a Class A or Class B felony under ORS 475.752 to 475.920 for the manufacture or delivery of a controlled substance in Schedule I or Schedule II, the registry identification

cardholder or the designated primary caregiver of the cardholder may possess one ounce of usable marijuana at any given time for a period of five years from the date of the conviction.

(2) A person authorized under ORS 475.304 to produce marijuana at a marijuana grow site:

(a) May produce marijuana for and provide marijuana:

(A) To a registry identification cardholder or [*that person's*] **a cardholder's** designated primary caregiver as authorized under this section[.]; **or**

(B) if the marijuana is usable marijuana or an immature marijuana plant and the registry identification cardholder authorizes the person responsible for the marijuana grow site to transfer the usable marijuana or immature marijuana plant to a medical marijuana facility registered under section 2 of this 2013 Act, to the medical marijuana facility.

(b) May possess up to six mature plants and up to 24 ounces of usable marijuana for each cardholder or caregiver for whom marijuana is being produced.

(c) May produce marijuana for no more than four registry identification cardholders or designated primary caregivers concurrently.

(d) Must obtain and display a marijuana grow site registration card issued under ORS 475.304 for each registry identification cardholder or designated primary caregiver for whom marijuana is being produced.

(e) Must provide all marijuana produced for a registry identification cardholder or designated primary caregiver to the cardholder or caregiver at the time the person responsible for a marijuana grow site ceases producing marijuana for the cardholder or caregiver.

(f) Must return the marijuana grow site registration card to the registry identification cardholder to whom the card was issued when requested to do so by the cardholder or when the person responsible for a marijuana grow site ceases producing marijuana for the cardholder or caregiver.

(3) Except as provided in subsections (1) and (2) of this section, a registry identification cardholder, the designated primary caregiver of the cardholder and the person responsible for a marijuana grow site producing marijuana for the registry identification cardholder may possess a combined total of up to six mature plants and 24 ounces of usable marijuana for that registry identification cardholder.

(4)(a) A registry identification cardholder and the designated primary caregiver of the cardholder may possess a combined total of up to 18 marijuana seedlings or starts as defined by rule of the Oregon Health Authority.

(b) A person responsible for a marijuana grow site may possess up to 18 marijuana seedlings or starts as defined by rule of the authority for each registry identification cardholder for whom the person responsible for the marijuana grow site is producing marijuana.

SECTION 7. ORS 475.323 is amended to read:

475.323. (1) Possession of a registry identification card [*or*], designated primary caregiver identification card pursuant to ORS 475.309 **or proof of registration as a medical marijuana facility under section 2 of this 2013 Act** does not alone constitute probable cause to search the person or property of the cardholder or otherwise subject the person or property of the cardholder to inspection by any governmental agency. **However, the Oregon Health Authority may inspect a medical marijuana facility registered under section 2 of this 2013 Act at any reasonable time to determine whether the facility is in compliance with ORS 475.300 to 475.346.**

(2) Any property interest possessed, owned or used in connection with the medical use of marijuana or acts incidental to the medical use of marijuana that has been seized by state or local law enforcement officers may not be harmed, neglected, injured or destroyed while in the possession of any law enforcement agency. A law enforcement agency has no responsibility to maintain live marijuana plants lawfully seized. No such property interest may be forfeited under any provision of law providing for the forfeiture of property other than as a sentence imposed after conviction of a criminal offense. Usable marijuana and paraphernalia used to administer marijuana that was seized by any law enforcement office shall be returned immediately upon a determination by the district attorney in whose county the property was seized, or the district attorney's designee, that the per-

son from whom the marijuana or paraphernalia used to administer marijuana was seized is entitled to the protections contained in ORS 475.300 to 475.346. The determination may be evidenced, for example, by a decision not to prosecute, the dismissal of charges or acquittal.

SECTION 8. ORS 475.331 is amended to read:

475.331. (1)(a) The Oregon Health Authority shall create and maintain a list of the persons to whom the authority has issued registry identification cards, the names of any designated primary [*caregivers and the addresses of authorized marijuana grow sites.*] **caregivers, the names of persons responsible for a medical marijuana facility registered under section 2 of this 2013 Act, the addresses of authorized marijuana grow sites and the addresses of registered medical marijuana facilities.** Except as provided in subsection (2) of this section, the list shall be confidential and not subject to public disclosure.

(b) The authority shall develop a system by which authorized employees of state and local law enforcement agencies may verify at all times that: [*a person is a lawful possessor of a registry identification card or the designated primary caregiver of a lawful possessor of a registry identification card or that a location is an authorized marijuana grow site.*]

(A) A person is a lawful possessor of a registry identification card;

(B) A person is the designated primary caregiver of a lawful possessor of a registry identification card;

(C) A location is an authorized marijuana grow site;

(D) A location is a registered medical marijuana facility; or

(E) A person is the person listed as the person responsible for a registered medical marijuana facility.

(2) Names and other identifying information from the list established pursuant to subsection (1) of this section may be released to:

(a) Authorized employees of the authority as necessary to perform official duties of the authority.[*; and*]

(b) Authorized employees of state or local law enforcement agencies, **who provide to the authority adequate identification, such as a badge number or similar authentication of authority,** only as necessary to verify that: [*a person is a lawful possessor of a registry identification card or the designated primary caregiver of a lawful possessor of a registry identification card or that a location is an authorized marijuana grow site. Prior to being provided identifying information from the list, authorized employees of state or local law enforcement agencies shall provide to the authority adequate identification, such as a badge number or similar authentication of authority.*]

(A) A person is a lawful possessor of a registry identification card;

(B) A person is the designated primary caregiver of a lawful possessor of a registry identification card;

(C) A location is an authorized marijuana grow site;

(D) A location is a registered medical marijuana facility; or

(E) A person is the person listed as the person responsible for a registered medical marijuana facility.

(3) Authorized employees of state or local law enforcement agencies that obtain identifying information from the list as authorized under this section may not release or use the information for any purpose other than verification that: [*a person is a lawful possessor of a registry identification card or the designated primary caregiver of a lawful possessor of a registry identification card or that a location is an authorized marijuana grow site.*]

(a) A person is a lawful possessor of a registry identification card;

(b) A person is the designated primary caregiver of a lawful possessor of a registry identification card;

(c) A location is an authorized marijuana grow site;

(d) A location is a registered medical marijuana facility; or

(e) A person is the person listed as the person responsible for a registered medical marijuana facility.

SECTION 9. (1) Sections 1 and 2 of this 2013 Act and the amendments to ORS 475.302, 475.304, 475.309, 475.320, 475.323 and 475.331 by sections 3 to 8 of this 2013 Act become operative on March 1, 2014.

(2) The Oregon Health Authority may take any action before the operative date specified in subsection (1) of this section to enable the authority to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the authority by sections 1 and 2 of this 2013 Act and the amendments to ORS 475.302, 475.304, 475.309, 475.320, 475.323 and 475.331 by sections 3 to 8 of this 2013 Act.

SECTION 10. Notwithstanding any other law limiting expenditures, the amount of $803,276 is established for the biennium beginning July 1, 2013, as the maximum limit for payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery funds and federal funds, collected or received by the Oregon Health Authority for administrative and operating expenses incurred in implementing section 2 of this 2013 Act and the amendments to ORS 475.302, 475.304, 475.309, 475.320, 475.323 and 475.331 by sections 3 to 8 of this 2013 Act.

SECTION 11. This 2013 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect on its passage.

Passed by House June 24, 2013

Repassed by House July 6, 2013

.....
Ramona J. Line, Chief Clerk of House

.....
Tina Kotek, Speaker of House

Passed by Senate July 3, 2013

.....
Peter Courtney, President of Senate

Received by Governor:

.....M., ..., 2013

Approved:

.....M., ..., 2013

.....
John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M., ..., 2013

.....
Kate Brown, Secretary of State

From: Wakeley, Renata [renatac@mwvcog.org]
Sent: Wednesday, January 29, 2014 3:34 PM
To: recorder; Joseph Schaefer; Bill Graupp
Subject: Oregon Medical Marijuana Program
Attachments: 16.14 Commercial.doc

All,

I received a call from a property management company out of Portland who manages the properties located roughly around 21172 and 21158 Highway 99E. His interest at this point is in a grow site in one of these warehouses for patience only under the Oregon Medical Marijuana Act (OMMA) of 1998. These are licensed growers that have the ability to provide to a preselected number of patience AND DO NOT SERVE AS RETAILERS under the new Medical Marijuana Dispensaries legislation under HB 3460.

In my other jurisdictions, if nurseries and wholesaling was permitted and they were licensed, they were allowed under the OMMA of 1998. Under the Commercial zone (attached), nurseries and greenhouses are permitted but we may be able to require that they be subject to SDR since the structure is vacant.

This issue will come up again quickly when, on March 4th, HB 3460 comes into effect allowing for dispensaries to serve as retail establishments. As the City does not have a school in town, you have no restrictions on these being located in Aurora but I do want to emphasize that there is a distinction between OMMA facilities and HB 3460 facilities.

My email is twofold:

a) I need permission to respond and follow up with this interested party about their ability to locate in town under OMMA of 1998 and the commercial zone. Does the City authorize me to work with this client or do I direct them back to City Hall?

b) I am including information in the February PC and CC packets as an update/FYI on HB 3460 to see if the City wants to take any action/have a discussion on the matter.

Renata Wakeley, Senior Planner
Mid-Willamette Valley Council of Governments
100 High Street SE, Suite 200, Salem, OR 97301
503 540 1618 direct
503 588 6177 reception
503 588 6094 fax

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Understanding the MEDICAL Marijuana Act

Voters enacted the Oregon Medical Marijuana Act (OMMA) in 1998. In the beginning, the OMMA and the medical marijuana program it authorized (OMMP) existed in relative obscurity. In the last few years, however, participation in the OMMP has exploded. As of July 1, 2011, there were 49,220 patients participating in the program. Nearly half of those patients, 21,833, joined the OMMP between July 1, 2010 and June 30, 2011.

The drastic increase in the number of patients participating in the OMMP has brought the program and related issues to the forefront of many public policy matters. For example, recent court cases have dealt with whether employers must provide accommodations for medical marijuana patients and whether federal law precludes the issuance of concealed weapon permits to such patients. In addition, city building officials and planners have had to confront requests made by organizations that are seeking to open medical marijuana related businesses, and city councilors and staff have had to address complaints from irate neighbors regarding vacant houses being used as medical marijuana grow sites. Likewise, law enforcement officers have had to deal with attempted thefts at medical marijuana grow sites as well as the safety concerns related to homemade security devices that property owners have erected at such sites.

As the OMMA grows older and more and more patients participate in the program, these and other issues will continue to arise. Before city officials can begin to contemplate whether and how to address these issues, they must first understand the basics of the OMMA.

The Legislative History of the OMMA

The OMMA was adopted by voters in the November 3, 1998 general election (Ballot Measure 67). The act was amended during the 1999, 2005 and 2007 legislative sessions. The text of the OMMA can be found at ORS 475.300 through 475.346.

The findings expressly stated in the OMMA indicate the intent of the law. These findings provide that by enacting the OMMA, the people of the state of Oregon intend:

- To allow Oregonians with debilitating medical conditions who may benefit from the medical use of marijuana to receive the benefit of their doctor's professional advice regarding the possible risks and benefits of medical marijuana;
- To allow Oregonians suffering from debilitating medical conditions to use small amounts of marijuana without fear of civil or criminal penalties when their doctors advise that such use may provide a medical benefit to them; and
- To make only those changes to existing Oregon laws that are necessary to protect patients and their doctors from criminal and civil penalties, and are not intended to change current civil and criminal laws governing the use of marijuana for non-medical purposes.

As these findings indicate, the primary purpose of the OMMA is to permit, without fear of prosecution, the use of small amounts of marijuana by patients with debilitating medical conditions when a doctor has concluded that the use of marijuana can help with those conditions.

> The drastic increase in the number of patients participating in the OMMP has brought the program and related issues to the forefront of many public policy matters.

The Components of the OMMA

To accomplish its goals, the OMMA basically does three things. First, the OMMA sets up a registration process for medical marijuana patients, their primary caregivers and their growers. Second, the act places limits on all of these individuals, and finally, the OMMA exempts these individuals from state criminal and civil penalties that would otherwise be imposed because of their use or possession of marijuana.

Patients who qualify for protection under the OMMA must register with the OMMP, which is run by the Oregon Health Authority. To participate, patients must have a qualifying medical condition diagnosed by an Oregon licensed M.D. or D.O. who agrees that the use of medical marijuana could help mitigate the patient's symptoms after conducting a thorough physical exam and reviewing the patient's medical records.

Once registered, patients are issued a medical marijuana card. Patients are required to carry with them their current OMMP Registry ID cards when possessing medical marijuana away from home or their grow site. Patients are not allowed to cultivate or consume medical marijuana in public view, drive under the influence of medical marijuana, share medical marijuana with anyone who is not currently registered with the OMMP, sell medical marijuana or give it to a minor.

When they register, patients may also register a primary caregiver. Patients may have only one primary caregiver at any time. A primary caregiver may possess marijuana for his or her patient and assist the patient with the use of the medical marijuana.

There is no place in Oregon to legally purchase medical marijuana. As such, patients registered with the OMMP are allowed to create a grow site at only one address. Patients may grow for themselves or designate a grower. A patient's grow site must be registered with the OMMP. The registration must include the address of the site and the name of the person responsible for the site. If patients elect to have someone other than themselves grow marijuana, the patients or their designated primary caregivers may reimburse the person responsible for their grow sites for the costs of supplies and utilities associated with the production of marijuana. No other costs associated with the production of marijuana, including the cost of labor, may be reimbursed. A person responsible for a grow site may produce marijuana for no more than four patients at a time. All grow sites must display a grow site registration card for each patient for whom marijuana is being produced.

The OMMA legalizes the possession and delivery of medical marijuana for a registered patient, the patient's primary caregiver, and/or an individual designated by the patient to grow medical marijuana for the patient. There are, however, limits on how many plants and how much usable medical marijuana each patient is allowed. The OMMA places the following limitations on possession:

- **Patient:** Six mature marijuana plants, 18 seedlings and 24 ounces of usable marijuana.
- **Registered Grow Site:** Six mature marijuana plants and 24 ounces of usable marijuana for each patient or caregiver for whom marijuana is being produced. Limited to growing for four patients at any given time.

The Role of the Federal Government

The use of medical marijuana is still illegal under federal law. The United States Controlled Substances Act prohibits and provides penalties for the use and possession of marijuana regardless of whether the marijuana is deemed medical marijuana under state law. Thus, the OMMA neither protects marijuana plants from seizure nor individuals from prosecution if the federal government chooses to take action against patients, primary caregivers or growers under the Controlled Substances Act.

This fact often leads to confusion. The federal government sought to clarify this issue when the United States Department of Justice (USDOJ) issued a memorandum on October 19, 2009 to federal prosecutors in states that have medical marijuana laws. The memorandum states that, as a general matter, federal resources in states with medical marijuana laws should not be focused on individuals who are "in clear and unambiguous compliance with existing state laws providing for the medical use of marijuana."

The memorandum goes on to make clear, however, that the prosecution of commercial enterprises that unlawfully market and sell marijuana for profit will continue to be a priority of USDOJ. In June of this year, the United States Attorney for Oregon, along with almost every district attorney in the state, issued a notice to owners, operators and landlords of Oregon marijuana dispensaries. The notice stated, "[t]he sale of marijuana for any purpose—including as medicine—violates both federal and Oregon law and will not be tolerated. People and businesses that conduct sales of marijuana face the risk of prosecution, civil enforcement action and seizure of assets." Thus, while federal prosecutors likely will not pursue prosecution of medical marijuana patients, they will likely pursue prosecution of any person or group selling marijuana, even medical marijuana.

(continued on page 17)

Medical Marijuana

continued from page 15

The Role of Local Government

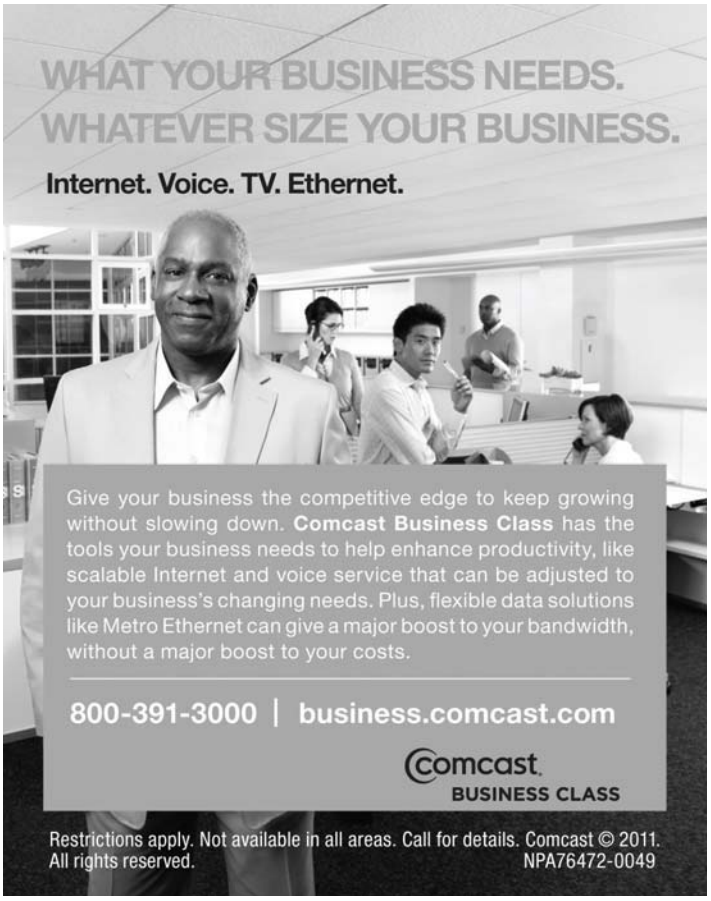
Local governments interact with the OMMA in three general capacities: as an employer; as law enforcement; and as a regulatory body.

As an employer, a local government might have employees who are patients registered with the OMMP. There are a myriad of issues that might arise if an employee is a registered OMMP patient. As such, cities should consult their attorney before inquiring whether an employee is an OMMP patient or taking any other action related to an employee's use of medical marijuana. Nonetheless, cities should understand that the OMMA expressly provides that nothing in the law shall be construed to require an employer to accommodate the medical use of marijuana in any workplace. In addition, the Oregon Supreme Court held in the case *Emerald Steel Fabricators, Inc. v. Bureau of Labor and Industries* that Oregon employers do not have to accommodate an employee's use of medical marijuana under Oregon's disability and discrimination laws.

Local governments also interact with the OMMA in its capacity as a law enforcement body. Local law enforcement personnel may take any action they believe is necessary to enforce the criminal laws of the state, including violations of the OMMA or the state's criminal laws relating to use and possession of marijuana. As part of this process, local law enforcement personnel may verify with the Oregon Health Authority at any time whether a particular patient, designated primary caregiver, person responsible for a grow site, or grow site location is registered with OMMP by calling the 24-hour LEDS (Law Enforcement Data System). In addition, the OMMA expressly states that possession of a medical marijuana identification card or a primary caregiver card does not alone constitute probable cause to search the person or property of the cardholder. Further, the OMMA provides that usable marijuana and paraphernalia used to administer marijuana that is seized shall be returned immediately upon a determination by the district attorney in whose county the property was seized that the person from whom the property was seized is entitled to the protections found in the OMMA.

Finally, local governments will interact with the OMMA as a regulatory body. Some cities might seek to enact local ordinances that regulate dispensaries or grow sites. For example, some jurisdictions have considered prohibiting a grow site within 1,000 feet of a school other than a grow site at a patient's personal residence. Because the OMMA does not expressly preempt cities from enacting local ordinances that regulate issues related to medical marijuana, cities can likely enact such ordinances so long as the local ordinances do not preclude a patient, primary caregiver or grower from also complying with the OMMA. Although not related to medical marijuana, a recent decision by the Oregon Court of Appeals in *Thunderbird Mobile Club v. City of Wilsonville* makes clear that when the state has not expressly prohibited a local regulation, the local regulation is not preempted by a state civil law unless the local regulation cannot operate concurrently with the state law. Cities are encouraged to work closely with their attorneys regarding to what extent the city may regulate issues related to medical marijuana. In addition, the League of Oregon Cities is working with a group of city attorneys to come up with some model ordinances for cities. ■

Editor's Note: *Because of the complexities and nuances of the OMMA and its interaction with federal law and other state laws, this article is necessarily general and is not intended to provide legal advice. This article should not serve as a substitute for competent legal counsel. Please consult with your city attorney to ensure that you fully understand these laws.*



From: oseph Schaefer
Sent: uesday, January 28, 2014 1:11 PM
To: ecorder
Subject: xcerpt for airport discussion

ORS 227.090 Powers and duties of commission. (1) Except as otherwise provided by the city council, a city planning commission may:

(i) Study and propose such measures as are advisable for promotion of the public interest, health, morals, safety, comfort, convenience and welfare of the city and of the area within six miles thereof.

From: recorder
Sent: Tuesday, January 28, 2014 12:35 PM
To: Amy Willman; Bud Fawcett; Jonathan Gibson; Joseph Schaefer; Robert Graham; Stephen Braun; Tara Weidman
Cc: Wakeley, Renata
Subject: HRB comments regarding code change on food carts

Planning Commission Members,

Please find below a few concerns that were discussed during the HRB meeting regarding the public hearing on the Municipal Code changes referencing food carts.

Consensus of HRB is that we have these concerns regarding the food cart language,

1. Storage of the (food cart) unit itself

2. hours of operation be limited

3. Motorized, not trailer pull style fully operable licensed vehicle, (I thought this was already in the code change?)

4. Daily basis all trash and debris be removed

5. Unit is in good visual repair

Thank you,

Kelly Richardson
City Recorder
City of Aurora
21420 Main St. NE
Aurora, Oregon 97002
503-678-1283
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February 2014 Update

LAND USE APPLICATIONS

Project	Status
Building Permits/Correspondence	• 14943 Ottaway Rd
Sign Permits	
Manufactured Home Permit	•
Land Use Applications	•

ADDITIONAL PLANNING

Project	Status
ODOT 99E Corridor Study	
Development Code/HRB updates	• LA-2013-01 • Information on HB 2034- Medical Marijuana Dispensaries
Misc.	• Volunteer to work on brochure samples for review and comment (check with Mayor Graupp)