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CITY OF TIGARD

Washington County, Oregon

NOTICE OF FINAL ORDER BY THE CITY COUNCIL

Case Number:	DEVELOPMENT CODE AMENDMENT (DCA) 2009-00003
Case Name:	OMNIBUS "HOUSEKEEPING" ITEMS
Applicant's Name/Address:	City of Tigard 13125 SW Hall Boulevard Tigard, OR 97223-8189
Owner's Names/Addresses:	N/A
Address of Property:	Citywide
Tax Map/Lot Nos.:	N/A

A FINAL ORDER INCORPORATING THE FACTS, FINDINGS AND CONCLUSIONS **APPROVING** A REQUEST FOR A **DEVELOPMENT CODE AMENDMENT (ORDINANCE NO. 09-13)**.

THE CITY OF TIGARD PLANNING COMMISSION AND CITY COUNCIL HAVE REVIEWED THE APPLICANT'S PLANS, NARRATIVE, MATERIALS, COMMENTS OF REVIEWING AGENCIES, THE PLANNING DIVISION'S STAFF REPORT AND RECOMMENDATIONS FOR THE APPLICATION DESCRIBED IN FURTHER DETAIL IN THE STAFF REPORT. THE PLANNING COMMISSION HELD A PUBLIC HEARING TO RECEIVE TESTIMONY ON **JULY 6, 2009** FOR THE PURPOSE OF MAKING A RECOMMENDATION TO THE CITY COUNCIL ON THE REQUEST. THE CITY COUNCIL ALSO HELD A PUBLIC HEARING TO RECEIVE TESTIMONY ON **SEPTEMBER 8, 2009** PRIOR TO MAKING A DECISION ON THE REQUEST. THIS DECISION HAS BEEN BASED ON THE FACTS, FINDINGS AND CONCLUSIONS CONTAINED WITHIN THIS FINAL ORDER.

Subject: ➤ A Development Code Amendment to promote consistency among the Code Chapters. These "housekeeping" items are from Community Development Code Chapters 18.120 Definitions, 18.220 Zoning Administration, 18.310 Summary of Land Use Permits, 18.330 Conditional Use, 18.350 Planned Developments, 18.360 Site Development Review, 18.385 Miscellaneous Permits, 18.390 Decision-Making Procedures, 18.410 Lot Line Adjustments, 18.430 Subdivisions, 18.510 Residential Zoning Districts, 18.520 Commercial Zoning Districts, 18.530 Industrial Zoning, 18.640 Durham Quarry Design Standards, 18.705 Access, Egress, and Circulation, 18.710 Accessory Residential Units, 18.715 Density Computations, 18.730 Exceptions to Development Standards, 18.742 Home Occupations, 18.745 Landscaping and Screening, 18.760 Non-Conforming Situations, 18.765 Off-Street Parking and Loading Requirements, 18.775 Sensitive Lands, 18.780 Signs, and 18.798 Wireless Communication Facilities.

ZONE: Various residential, commercial and industrial zones. **APPLICABLE REVIEW CRITERIA:** Community Development Code Chapters 18.380, 18.390. Comprehensive Plan Chapters Goal 1: Citizen Involvement; Goal 2: Land Use Planning. Metro Functional Plan: Metro Code Sections 3.07, Urban Growth Management Functional Plan. Statewide Planning Goals 1, 2.

Action: ➤ Approval as Requested Approval with Conditions Denial

Notice: Notice was published in the newspaper, posted at City Hall and mailed to:

Affected Government Agencies Interested Parties

Final Decision:

THIS IS THE FINAL DECISION BY THE CITY AND IS EFFECTIVE ON OCTOBER 8, 2009.

The adopted findings of fact, decision and statement of conditions can be obtained from the City of Tigard Planning Division, Tigard City Hall, 13125 SW Hall Boulevard, Tigard, Oregon.

Appeal: A review of this decision may be obtained by filing a notice of intent with the Oregon Land Use Board of Appeals (LUBA) within 21 days according to their procedures.

Questions: If you have any questions, please call the City of Tigard Planning Division or the City Recorder at (503) 639-4171.

EXHIBIT “A”

AMENDMENTS TO THE TIGARD DEVELOPMENT CODE (TITLE 18) AS PROPOSED IN LAND USE CASE DCA2009-00003

(**Bold and underline text** indicates proposed new language and ~~strike through~~ indicates language proposed to be deleted.)

Chapter 18.120 DEFINITIONS

18.120.030 Meaning of Specific Words and Terms

A. For additional words and terms, also see Use Classifications (Section 18.130); Mixed Solid Waste and Recyclable Storage (Section 18.755); Sensitive Lands (Section 18.775); Signs (Section 18.780); Tree Removal (Section 18.790); and Wireless Communication Facilities (Section 18.798). As used in this title, the following words and phrases mean:

4. “Accessory building or structure” - A ~~freestanding~~ structure **whose use is** incidental and subordinate to the main use of property, ~~and is~~ located on the same lot as the main use **and is freestanding or is joined to the primary structure solely by non-habitable space as defined by the State Building Code.**
6. “Addition” - A modification to an existing building or structure which increases **its height or increases** the site coverage. **A structure is considered an addition only when it shares a common wall and is structurally dependent on the primary structure. (See also “Accessory building or structure” and “common wall”)**

43. “Common Wall” – A wall or joined walls that share a boundary to provide separation of interior spaces. For vertical additions, a floor/ceiling assembly is a shared boundary separating spaces.

Finding: This proposed amendment clarifies accessory structure definitions and associates all relevant definitions to work in concert. These definitions help to define accessory structures to avoid large buildings attached by breezeways and refine the wording of Director’s Interpretation of July 3, 2006. Therefore, this proposed amendment better implements the City’s Comprehensive Plan and implementing ordinances by aligning all associated definitions.

18.120.030 Meaning of Specific Words and Terms

A. For additional words and terms, also see Use Classifications (Section 18.130); Mixed Solid Waste and Recyclable Storage (Section 18.755); Sensitive Lands (Section 18.775); Signs (Section 18.780); Tree Removal (Section 18.790); and Wireless Communication Facilities (Section 18.798). As used in this title, the following words and phrases mean:

54. “Density” - The intensity of residential land uses, usually stated as the number of housing units per acre and defined in Section ~~+8.720.~~ **18.715.**

Finding: Scrivener’s error; incorrect Code Section reference. Therefore, this proposed amendment better implements the City’s Comprehensive Plan and implementing ordinances by promoting consistency among the Code Sections.

18.120.030 Meaning of Specific Words and Terms

A. For additional words and terms, also see Use Classifications (Section 18.130); Mixed Solid Waste and Recyclable Storage (Section 18.755); Sensitive Lands (Section 18.775); Signs (Section 18.780); Tree Removal (Section 18.790); and Wireless Communication Facilities (Section 18.798). As used in this title, the following words and phrases mean:

117. **“Public support facilities” – Services which are necessary to support uses allowed outright in the underlying zone and involve only minor structures such as underground utilities and construction of roadway improvements including sidewalks, curbs, streetlights, and driveway aprons, power lines and poles, phone booths, fire hydrants, as well as bus stops, benches and mailboxes which are necessary to support principal development.**

Finding: This clarifies the term used in the Sensitive Lands Chapter so that it is the same as the original sensitive lands regulations and so as not to be confused with principal structures like streets. The term “public support facilities” is used in the Sensitive Lands Section but is not defined. This amendment uses the definition listed in the 1984 code and helps to eliminate confusion about what is meant by the term. This also aligns with Tigard Development Code Section 18.775.020.E.1.a. Therefore, this proposed amendment better implements the City’s Comprehensive Plan and implementing ordinances by promoting consistency among the Code Sections.

Chapter 18.220 ZONING ADMINISTRATION

18.220.020 Zoning District Map

*A. Consistency with zoning map. The boundaries of each of the foregoing districts ~~as~~ listed in ~~Table 18.220.1~~ **Chapter 18.500** and the zoning classification and use of each tract in each of said zoning district is perceived to coincide with the identifying zone classification shown on the map entitled “Tigard Zoning District Map”, dated with the effective date of this title retained by the City Recorder and referred to as the “zoning district map.” Said map by this reference is made a part of this title. A certified print of the adopted zoning district map or map amendments shall be maintained in the office of the Planning Division as long as the code remains in effect.*

Finding: Scrivener’s error; the referenced table “Table 18.220.1” doesn’t exist. Therefore, this proposed amendment better implements the City’s Comprehensive Plan and implementing ordinances by promoting consistency among the Code Sections.

Chapter 18.310 SUMMARY OF LAND USE PERMITS

18.310.020 Summary of Land Use Permits

A. Summary Table. The table summarizing the decision-making procedure and substantive approval requirements of each land use permit and related action is presented in Table 18.310.1 below:

TABLE 18.310.1 (Con’t.)

Land Use Permit/Action	Decision-Making Type	Approval Criteria	Other Development Regulations
Sensitive Lands			
• Within 100-Year Flood Plain	I, III-HO	18.775.020.E ⁴ 18.775.070B	18.775
• With Excessive Slopes	I, II, III-HO ³	18.775.020.E ⁴ 18.775.070C	18.775
• Within Drainage Ways	I, II, III-HO ³	18.775.020.E ⁴ 18.775.070D	18.775
• Within Wetlands	II, III-HO ³	18.775.070E	18.775
Water Resources Overlay			
• Permitted Uses With Mitigation	I	18.797.060A-D	18.797
• Permitted Uses w/Mitigation/ No Alternative II	18.797.060B-D	18.797	
• Conditional Uses	III-HO ³	18.797.060B-D	18.797

Add footnote [4] Type I procedures are reviewed with criteria of 18.775.020.E Type II and III procedures are reviewed with criteria 18.775.070.B.

Finding: Scrivener’s error. This amendment is proposed because the City does not have a fee for Type I sensitive lands. Additionally, the Table doesn’t list Type I sensitive lands permits and lists a “water resources overlay” which no longer exists. Therefore, this proposed amendment better implements the City’s Comprehensive Plan and implementing ordinances by promoting consistency among the Code Sections.

Chapter 18.330 CONDITIONAL USE

18.330.020 Approval Process

E. Approval period. Conditional use approval by the Hearings Officer shall be effective for a period of 1-1/2 years from the date of approval. The conditional use approval by the Hearings Officer shall lapse if:

- 1. Substantial construction of the approved plan has not begun within a one and one half year period;**
- or**
- 2. Construction on the site is a departure from the approved plan.**

18.330.020.C. Minor modification of approved or existing conditional use.

2. An applicant may request approval of a minor modification by means of a Type I procedure, as regulated by Section ~~18.390.040~~ 18.390.030, using approval criteria in Subsection C3 below.

Chapter 18.390 SUMMARY OF PERMITS BY TYPE OF DECISION-MAKING PROCEDURE

**TABLE 18.390.1
SUMMARY OF PERMITS BY TYPE OF DECISION-MAKING PROCEDURE**

Type	Permit/Land	Cross-Reference(s)
I (18.390.030)	Accessory Residential Units	18.710
	
	Wireless Communications Facilities -- Setback from Other Towers	18.370.040 C8b; 18798
	<u>Conditional Use/Minor Modification</u>	<u>18.330.030</u>
Type	Permit/Land	Cross-Reference(s)
II (18.390.040)	Access/Egress Adjustment	18.370.020 C3b
	<u>Conditional Use/Minor Modification</u>	<u>18.330.030</u>

Finding: 18.330 does not explicitly state approval for 18 months while 18.330.030A.6. relates to site development review, which could be applied. This makes the approval period consistent with that of the site development review process. There is a conflict between Sections 18.390 and 18.330 regarding minor modifications to Conditional Use Permits. The City has been processing CUP minor modifications as Type I processes based on 18.330.020.C.2 and Table 18.310. Contrary to this, 18.390.040 shows a minor modification as a Type II procedure. To address this, 18.330.020.C.2 should refer to Section 18.390.030 because the minor modification application is a Type I. In this amendment, Table 18.390.1 is modified to remove CUP minor modifications from the Type II Section and added to the Type I Section. Therefore, this proposed amendment better implements the City's Comprehensive Plan and implementing ordinances by promoting consistency among the Code Sections and review processes.

Chapter 18.350 PLANNED DEVELOPMENTS

18.350.070 Detailed Development Plan Approval Criteria

A. Detailed development plan approval criteria. A detailed development plan may be approved only if all the following criteria are met:

4. In addition, the following criteria shall be met:

m. Shared open space facilities: **These requirements are applicable to residential planned developments only.** The detailed development plan shall designate a minimum of 20% of the gross site area as a shared open space facility. The open space facility may be comprised of any combination of the following:

- (1) Minimal use facilities. Up to 75% of the open space requirement may be satisfied by reserving areas for minimal use. Typically these areas are designated around sensitive lands (steep slopes, wetlands, streams, or 100 year floodplain).
- (2) Passive use facilities. Up to 100% of the open space requirement may be satisfied by providing a detailed development plan for improvements (including landscaping, irrigation, pathway and other structural improvements) for passive recreational use.
- (3) Active use facilities. Up to 100% of the open space requirement may be satisfied by providing a detailed development plan for improvements (including landscaping, irrigation, pathway and other structural improvements) for active recreational use.
- (4) The open space area shall be shown on the final plan and recorded on the final plat or covenants.

Finding: The new PD Section requires commercial and industrial uses to adhere to the same open space standard as a residential subdivision. The Planning Commission members have said that this was not intended. Shared open space facilities are problematic and provide for a significant cost and feasibility impact for conventional commercial development unless there are existing natural areas that could not otherwise be developed. With this standard, there is little expectation that any developer would volunteer to use the PD process. Therefore, this proposed amendment better implements the City's Comprehensive Plan and implementing ordinances by refining regulations to their intent.

Chapter 18.360 SITE DEVELOPMENT REVIEW

18.360.080 Exceptions to Standards

18.360.080 Exceptions to Standards 18.360.080 Exceptions to Standards

D. Exceptions to landscaping requirements. The Director ~~shall~~ **may** grant an exception to the landscaping requirements of this code, Section ~~48.420.150~~, **18.360.070.B.4** upon finding that the overall landscape plan provides for at least 20 **percent** of the gross site to be landscaped.

Finding: The existing section refers to old development Code's Site Development Review Process. Additionally, the word "shall" if the overall landscape plan provides for 20% could be problematic since that is the standard for most zones.

18.360.030 Approval Process

A. New developments and major modifications. Site development review for a new development or major modification of an approved plan or existing development, as defined in Section ~~48.360.030.A~~, **18.360.020.A** shall be processed by means of a Type II procedure, as governed by Section 18.390.040, using approval criteria contained in Section 18.360.090.

Finding: This amendment is proposed because the section refers to itself as a definition. The proposed language references the list of the Site Development Review processes.

Chapter 18.385 MISCELLANEOUS PERMITS

Note: Entire Section Removed

~~Miscellaneous Permits 18.385-11/26/98~~

~~Chapter 18.385~~

~~MISCELLANEOUS PERMITS~~

~~Sections:~~

~~18.385.010 Historic Overlay Related Permits~~

~~18.385.020 Home Occupation Permits~~

~~18.385.030 Non-Conforming Use Confirmation~~

~~18.385.040 Sensitive Land Permits~~

~~18.385.050 Temporary Use Permits~~

~~18.385.060 Tree Removal Permits~~

~~18.385.010 Historic Overlay Related Permits~~

~~A. Criteria for historic overlay district designation.~~

1. Approval of an historic overlay district designation shall be made by means of a Type IIB procedure, as governed by Section 18.390.050, when the Historic Sites and Districts Committee finds that any of the following criteria have been met:

- a. The proposed district or landmark would serve the purpose of the historic overlay district as stated in Section 18.740.010, Purpose;
- b. The site or area proposed for the designation reflects the broad cultural or natural history of the community, state or nation;
- c. The site or area is identified with historic personages, or with important events in national, state or local history;
- d. The site or area proposed for the designation embodies the distinguishing characteristics of an architectural specimen inherently valuable for a study of a period, style or method of construction; or
- e. The proposed site or area is a notable work of a master builder, designer or architect.

2. The age of a specific building is not sufficient in itself to warrant designation as historic.

B. Criteria for removal of historic overlay district designation. Removal of an historic overlay district designation shall be made by means of a Type IIB procedure, as governed by Section 18.390.050, when the Historic Sites and Districts Committee finds that any of the following criteria have been met:

1. The original historic overlay district designation was placed on the site in error;
2. The resource designated with the historic overlay district designation has ceased to exist;
3. The resource designated with the historic overlay district designation is no longer of significance to the public; or
4. The historic overlay district designation is causing the property owner to bear an unfair economic burden to maintain the property as an historic or cultural resource.

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C. Criteria for exterior alterations. Approval for exterior alterations of structures in an historic overlay district shall be granted by means of a Type II procedure, as governed by Section 18.390.040, by the Director using the following criteria:

1. The purpose of the historic overlay district as set forth in Section 18.740.010;
2. The economic use of the structure in a historic overlay district and the reasonableness of the proposed alteration and their relationship to the public interest in the structure's or landmark's preservation or renovation;
3. The value and significance of the structure or landmark in an historic overlay district;
4. The physical condition of the structure or landmark in an historic overlay district; and
5. The general compatibility of exterior design, arrangement, proportion, detail, scale, color, texture, and materials proposed to be used with an existing structure in an historic overlay district.

D. Criteria for construction of new structures. Approval for exterior alterations of structures in an historic overlay district shall be granted by means of a Type II procedure, as governed by Section 18.390.040, by the Director using the following criteria:

1. The purpose of the historic overlay district as set forth in Section 18.740.010;
2. The economic effect of the new structure on the historic value of the district;
3. The visual effect of the proposed new structure on the architectural character of the district; and
4. The general compatibility of the exterior design, arrangement, proportion, detail, scale, color, texture and materials proposed to be used in the construction of the new building or structure.

E. Criteria for demolition. Approval for demolition of structures in an historic overlay district shall be granted by means of a Type II procedure, as governed by Section 18.390.040, by the Director using the following criteria:

1. The purpose of this Section as set forth in Section 18.740.010;
2. The criteria used in the original designation of the district in which the property under consideration is situated;
3. The historical and architectural style, the general design, arrangement, materials of the structure in question, or its appurtenant fixtures; the relationship of such features to similar features of the other buildings within the district, and the position of the building or structure in relation to public rights-of-way, and to other buildings and structures in the area;
4. The effects of the proposed work upon the protection, enhancement, perpetuation and use of the district which cause it to possess a special character or special historical or aesthetic interest or value; and

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5. Whether denial of the permit will subject the City to potential liability, involve substantial hardship to the applicant, and whether issuance of the permit would act to the substantial detriment of the public welfare and would be contrary to the intent and purposes of this title.

18.385.020 Home Occupation Permits

A. Type I home occupation permit. A Type I home occupation permit will be processed by means of a Type I procedure, as governed by Section 18.390.030, after a demonstration that the proposal complies with all development criteria in Sections 18.742.040A and 18.742.050 A1.

B. Type II home occupation permit. A Type II home occupation permit will be processed by means of a Type II procedure, as governed by Section 18.390.040, after a demonstration that the proposal complies with all development criteria in Sections 18.742.040A and 18.742.050 A2, and subject to the following approval criteria:

1. Is in conformance with the standards contained in this Section; and
2. Will be subordinate to the residential use of the property; and
3. Is undertaken in a manner that is not detrimental nor disruptive in terms of appearance or operation to neighboring properties and residents.

C. Conditions of approval. The Director may impose conditions upon the approval of a Type II home occupation permit to ensure compliance with the requirements of this Section. These conditions may include, but are not limited to, the following:

1. Further limiting the hours, days, place and manner of operation;
2. Requiring site and building design features which minimize environmental impacts such as noise, vibration, air pollution, glare, odor and dust;
3. Requiring additional building setbacks, and increased lot area, depth or width;
4. Further limiting the building area and outdoor storage used by the home occupation and restricting the location of the use on the site in relationship to adjoining uses;
5. Designating the size, number, location and design of vehicle access points;
6. Requiring street right-of-way to be free at all times of vehicles associated with the home occupation;
7. Requiring landscaping, buffering and/or screening, of the home occupation from adjoining uses and establishing standards for the continued maintenance of these improvements;
8. Requiring storm drainage improvements, and surfacing of parking and loading areas;
9. Limiting the extent and type of interior or exterior building remodeling necessary to accommodate the home occupation;
10. Limiting or setting standards for the location and intensity of outdoor lighting;

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11. Requiring and designating the size, height and location of fences and materials used for their construction;
12. Requiring the protection and preservation of existing trees, and other vegetation, watercourses, slopes, wildlife habitat areas and drainage areas;
13. Limiting the type and number of vehicles or equipment to be parked or stored on the site; and
14. Any other limitations which the Director considers to be necessary or desirable to make the use comply with the purposes stated in Sections 18.745.040 and 18.742.050.

D. Grounds for revocation. The Director may:

1. Revoke a home occupation approval if the conditions of approval have not been or are not being complied with and the home occupation is otherwise being conducted in a manner contrary to this Section.

2. The Director shall approve the use as it exists, revoke the home occupation permit, or compel measures to be taken to ensure compatibility with the neighborhood and conformance with this Section after reviewing a complaint. Complaints may be originated by the City of Tigard or the public. Complaints from the public shall clearly state the objection to the home occupation, such as:

- a. Generation of excessive traffic;
- b. Exclusive use of on-street parking spaces;
- c. Other offensive activities not compatible with a residential neighborhood.

E. Cessation of home occupation pending review. If it is determined by the Director 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 Hearings Officer review and/or exhaustion of all appeals.

F. Waiting period for re-application. 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.

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

18.385.030 Non-Conforming Use Confirmation

A. Permit requirement. Using a Type I procedure, as governed by Section 18.390.030, the following criteria shall be used by the Director to issue a confirmation of legal nonconforming use:

1. Proof that the use was permitted by this title at the time it was established, by any of the following:

- a. Copies of building and/or land use permits issued at the time the use was established;
- b. Copies of zoning code provisions and/or maps;

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c. Demonstration that the use was established before the first development code for the community was adopted.

2. Proof that the use has been maintained over time. This includes copies of the one or more of the following evidence for every other year from the time the use was established until the current year. Standard evidence that the use has been maintained over time includes:

- a. Utility bills;
- b. Income tax records;
- c. Business licenses;
- d. Listings in telephone, business and Polk directories;
- e. Advertisements in dated publications, e.g., trade magazines, and/or;
- f. Building, land use or development permits.

18.385.040 Sensitive Lands Permits

A. Permits required. An applicant who wishes to develop within a sensitive area, as defined in Section 18.775, must obtain a permit in certain situations. Depending on the nature and intensity of the proposed activity within a sensitive area, either a Type II or Type III permit is required, as delineated in Section 18.775.015 D and E. The approval criteria for various kinds of sensitive areas, e.g., floodplain, are presented in SubSections B – E below.

B. Within the 100-year floodplain. The Hearings Officer shall approve, approve with conditions or deny an application request within the 100-year floodplain based upon findings that all of the following criteria have been satisfied:

- 1. Land form alterations shall preserve or enhance the floodplain storage function and maintenance of the zero-foot rise floodway shall not result in any encroachments, including fill, new construction, substantial improvements and other development unless certified by a registered professional engineer that the encroachment will not result in any increase in flood levels during the base flood discharge;
- 2. Land form alterations or developments within the 100-year floodplain shall be allowed only in areas designated as commercial or industrial on the comprehensive plan land use map, except that alterations or developments associated with community recreation uses, utilities, or public support facilities as defined in Section 18.120 of the Community Development Code shall be allowed in areas designated residential subject to applicable zoning standards;
- 3. Where a land form alteration or development is permitted to occur within the floodplain it will not result in any increase in the water surface elevation of the 100-year flood;
- 4. The land form alteration or development plan includes a pedestrian/bicycle pathway in accordance with the adopted pedestrian/bicycle pathway plan, unless the construction of said pathway is deemed by the Hearings Officer as untimely;

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5. The plans for the pedestrian/bicycle pathway indicate that no pathway will be below the elevation of an average annual flood;

6. The necessary U.S. Army Corps of Engineers and State of Oregon Land Board, Division of State Lands approvals shall be obtained; and

7. Where land form alterations and/or development are allowed within and adjacent to the 100-year floodplain, the City shall require the dedication of sufficient open land area within and adjacent to the floodplain in accordance with the comprehensive plan. This area shall include portions of a suitable elevation for the construction of a pedestrian/bicycle pathway within the floodplain in accordance with the adopted pedestrian/bicycle pathway plan.

C. With excessive slopes. The appropriate approval authority shall approve, approve with conditions or deny an application request for a sensitive lands permit on slopes of 25% or greater or unstable ground based upon findings that all of the following criteria have been satisfied:

- 1. The extent and nature of the proposed land form alteration or development will not create site disturbances to an extent greater than that required for the use;
- 2. The proposed land form alteration or development 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 structures are appropriately sited and designed to ensure structural stability and proper drainage of foundation and crawl space areas for development with any of the following soil conditions: wet/high water table; high shrink-swell capability; compressible/organic; and shallow

depth-to-bedrock; and

4. Where natural vegetation has been removed due to land form alteration or development, the areas not covered by structures or impervious surfaces will be replanted to prevent erosion in accordance with Section 18.745, Landscaping and Screening.

D. Within drainage ways. The appropriate approval authority shall approve, approve with conditions or deny an application request for a sensitive lands permit within drainage ways based upon findings that all of the following criteria have been satisfied:

1. The extent and nature of the proposed land form alteration or development will not create site disturbances to the extent greater than that required for the use;

2. The proposed land form alteration or development 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 water flow capacity of the drainage way is not decreased;

4. Where natural vegetation has been removed due to land form alteration or development, the areas not covered by structures or impervious surfaces will be replanted to prevent erosion in accordance with Section 18.745, Landscaping and Screening;

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5. The drainage way will be replaced by a public facility of adequate size to accommodate maximum flow in accordance with the adopted 1981 Master Drainage Plan;

6. The necessary U.S. Army Corps of Engineers and State of Oregon Land Board, Division of State Lands approvals shall be obtained; and

7. Where land form alterations and/or development are allowed within and adjacent to the 100-year floodplain, the City shall require the dedication of sufficient open land area within and adjacent to the floodplain in accordance with the Comprehensive Plan. This area shall include portions of a suitable elevation for the construction of a pedestrian/bicycle pathway within the floodplain in accordance with the adopted pedestrian bicycle pathway plan.

E. Within wetlands. The Director shall approve, approve with conditions or deny an application request for a sensitive lands permit within wetlands based upon findings that all of the following criteria have been satisfied:

1. The proposed land form alteration or development is neither on wetland in an area designated as significant wetland on the Comprehensive Plan Floodplain and Wetland Map nor is within 25 feet of such a wetland;

2. The extent and nature of the proposed land form alteration or development will not create site disturbances to an extent greater than the minimum required for the use;

3. Any encroachment or change in on-site or off-site drainage which would adversely impact wetland characteristics have been mitigated;

4. Where natural vegetation has been removed due to land form alteration or development, erosion control provisions of the Surface Water Management program of Washington County must be met and areas not covered by structures or impervious surfaces will be replanted in like or similar species in accordance with Section 18.745, Landscaping and Screening;

5. All other sensitive lands requirements of this Section have been met;

6. The provisions of Section 18.790, Tree Removal, shall be met; and

7. Physical Limitations and Natural Hazards, Floodplains and Wetlands, Natural Areas, and Parks, Recreation and Open Space policies of the Comprehensive Plan have been satisfied.

18.385.050 Temporary Use Permits

A. Seasonal and special events. Using a Type I procedure, as governed by Section 18.390.030, the Director shall approve, approve with conditions or deny based on findings that all of the following criteria are satisfied:

1. The use occurs only once in a calendar year and for no longer a period than 30 days;

2. The use is permitted in the underlying zoning district;

3. The applicant has proof of the property owner's permission to place the use on his/her property;

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4. There will be no parking utilized by the customers and employees of the temporary use which is needed by the property owner to meet his/her minimum parking requirement, as governed by Section 18.765, Parking and Loading;

5. The use will provide adequate vision clearance, as governed by Section 18.795, Vision Clearance, and shall not obstruct pedestrian access on public rights-of-way.

B. Unforeseen/Emergency Situations. Using a Type II procedure, as governed by Section 18.390.040, the Director shall approve, approve with conditions or deny based on findings that all of the following criteria are satisfied:

1. The need for the use is the direct result of a casualty loss such as fire, wind storm, flood or other

- severe damage by the elements to a pre-existing structure or facility previously occupied by the applicant on the premises for which the permit is sought;
- 2. The use of a mobile or manufactured home on a lot with an existing dwelling unit is necessary to provide adequate and immediate health care for a relative who needs close attention who would otherwise be required to receive needed attention from a hospital or care facility;
- 3. The applicant has been evicted within 60 days of the date of the application from a pre-existing occupancy of the premises for which the permit is sought as a result of condemnation proceedings by a public authority, or eviction by abatement of nuisance proceedings, or by determination of a public body or court having jurisdiction that the continued occupancy of the facilities previously occupied constitutes a nuisance or is unsafe for continued use; or
- 4. There has been a loss of leasehold occupancy rights by the applicant due to unforeseeable circumstances or other hardship beyond the foresight and control of the applicant;
- 5. There exists adequate and safe ingress and egress when combined with the other uses of the property, as required by Section 18.705, Access, Egress and Circulation, and Section 18.795, Visual Clearance;
- 6. There exists adequate parking for the customers of the temporary use as required by Section 18.765, Off-Street Parking;
- 7. The use will not result in congestion on adequate streets;
- 8. The use will pose no hazard to pedestrians in the area of the use;
- 9. The use will not create adverse off-site impacts including noise, odors, vibrations, glare or lights which will affect adjoining use, in a manner which other use allowed outright in the zone, would not affect adjoining use; and
- 10. The use can be adequately served by sewer or septic system and water, if applicable.

C. Temporary sales office or model home. By means of a Type I procedure, as governed by Section 18.390.030, the Director may approve, approve with conditions or deny the use of any real property within the City as a temporary sales office, offices for the purpose of facilitating the sale of real property, or model home in any subdivision or tract of land within this City, but for no other purpose, provided the following criteria are satisfied:

Miscellaneous Permits 18.385-9-11/26/98

1. Temporary sales office:

- a. The temporary sales office shall be located within the boundaries of the subdivision or tract of land in which the real property is to be sold; and
- b. The property to be used for a temporary sales office shall not be permanently improved for that purpose.

2. Model house:

- a. The model house shall be located within the boundaries of the subdivision or tract of land where the real property to be sold is situated; and
- b. The property to be used for a model house shall be a permanently designed dwelling structure.

D. Temporary Building. Using a Type II procedure, as governed by Section 18.390.040, The Director may approve, approve with conditions or deny a temporary trailer or prefabricated building for use on any real commercial or industrial property within the City as a temporary commercial or industrial office or space associated with the primary use on the property, but for no other purpose, providing the following criteria are satisfied:

- 1. The temporary trailer shall be located within the boundaries of the parcel of land on which it is located;
- 2. The property to be used for a temporary trailer shall already be developed;
- 3. There exists adequate and safe ingress and egress when combined with the other uses of the property; as required by Section 18.705, Access, Egress and Circulation, and Section 18.795, Visual Clearance;
- 4. There exists adequate parking for the customers or users of the temporary use as required by 18.765, Off-Street Parking;
- 5. The use will not result in congestion on adequate streets;
- 6. The use will pose no hazard to pedestrians in the area of the use;
- 7. The use will not create adverse off-site impacts including noise, odors, vibrations, glare or lights which will affect the adjoining uses in a manner which other uses allowed outright in the zone would not affect the adjoining uses;
- 8. The use can be adequately served by sewer or septic system and water, if applicable; and
- 9. The length of time that the temporary building will be used is the maximum needed to address the hardship.

Miscellaneous Permits 18.385-10-11/26/98

18.385.060 Tree Removal Permits

A. Approval criteria. Using a Type I procedure, as governed by Section 18.390.030, the following approval standards shall be used by the Director for the issuance of a tree removal permit on sensitive lands:

1. Removal of the tree must not have a measurable negative impact on erosion, soil stability, flow of surface waters or water quality as evidenced by an erosion control plan which precludes:

- a. Deposits of mud, dirt, sediment or similar material exceeding 1/2 cubic foot in volume on public or private streets, adjacent property, or into the storm and surface water system, either by direct deposit, dropping, discharge or as a result of the action of erosion;
- b. Evidence of concentrated flows of water over bare soils; turbid or sediment-laden flows; or evidence of on-site erosion such as rivulets on bare soil slopes where the flow of water is not filtered or captured on site using the techniques of Section 5 of the Washington County Unified Sewerage Agency Environmental Protection and Erosion Control rules.

2. Within stream or wetland corridors, as defined as 50 feet from the boundary of the stream or wetland, tree removal must maintain no less than a 75% canopy cover or no less than the existing canopy cover if the existing canopy cover is less than 75%.

B. Effective date of permit. A tree removal permit shall be effective for one and one-half years from the date of approval.

C. Extension. Upon written request by the applicant prior to the expiration of the existing permit, a tree removal permit shall be extended for a period of up to one year if the Director finds that the applicant is in compliance with all prior conditions of permit approval and that no material facts stated in the original application have changed. ■

Finding: This Section is repetitive relative to existing code requirements. It is repeated in each individual Section of the development code pertaining to the permits listed in Section 18.385. This redundancy creates confusion for applicants and City Staff. Therefore, this proposed amendment better implements the City's Comprehensive Plan and implementing ordinances by promoting consistency among the Code Sections.

Chapter 18.390 DECISION-MAKING PROCEDURES

18.390.080 General Provisions

E. Director's duties. With regard to processing applications submitted under this Section, the Director shall:

3. Accept all development applications which comply with the provisions of Section ~~18.380.080 C3~~ **18.390.080.D.3.**

Finding: Scrivener's error; incorrect Section reference. Therefore, this proposed amendment better implements the City's Comprehensive Plan and implementing ordinances by promoting consistency among the Code Sections.

18.390.040 Type II Procedure

C. Notice of pending Type II Administrative Decision.

1. Prior to making a Type II Administrative Decision, the Director shall provide notice to:

- a. All owners of record within 500 feet of the subject site;
- b. Any City-recognized neighborhood group whose boundaries include the site;
- c. Any governmental agency which is entitled to notice under an intergovernmental agreement entered into with the City which includes provision for such notice or who is otherwise entitled to such notice.

and

18.390.050 Type III Procedure

C. Notice of hearing.

1. Mailed notice. Notice of a Type II Administrative Appeal hearing or Type III hearing shall be given by the Director in the following manner:

- a. At least 20 days prior to the hearing date, notice shall be sent by mail to:
 - (1) The applicant and all owners or contract purchasers of record of the site which is the subject of the application;
 - (2) All property owners of record within 500 feet of the site;
 - (3) Any affected governmental agency which has entered into an intergovernmental agreement with the City which includes provision for such notice, or who is otherwise entitled to such notice;
 - (4) Any **City-recognized** neighborhood **group** ~~or community organization recognized by the City Council and~~ whose boundaries include the site;

- (5) Any person who has submitted a written request, and who has paid a fee established by the City Council; and
- (6) In actions involving appeals, the appellant and all parties to the appeal.

and

18.390.060 Type IV Procedure

D. Notice of hearing.

1. *Required hearings. Two hearings, one before the Commission and one before the Council, are required for all Type IV actions, except annexations where only a hearing by the City Council is required.*
2. *Notification requirements. Notice of the public hearings for the request shall be given by the Director in the following manner:*
 - a. *At least ten days prior to the scheduled hearing date, notice shall be sent to:*
 - (1) *The applicant;*
 - (2) *Any affected governmental agency;*
 - (3) ~~*The individual recognized by the affected CIT as the official contact person*~~ **Any City-recognized neighborhood group whose boundaries include the site;** and
 - (4) *Any person who requests notice in writing and pays a fee established by Council resolution.*

Finding: These amendments synchronize the neighborhood notice process for Type II, III, and IV Procedures. This will allow City Staff to send notices based on the new Neighborhood Network Boundaries (or any future boundary) for all types of decisions. Therefore, this proposed amendment better implements the City's Comprehensive Plan and implementing ordinances by promoting consistency among the Code Sections.

Chapter 18.410 LOT LINE ADJUSTMENTS

18.410.040.A Approval Criteria

4. With regard to flag lots:

- b. *A screen shall be provided along the property line of a lot of record where the paved drive in an access way is located within ten feet of an abutting lot in accordance with Sections ~~18.745.040–050~~. Screening may also be required to maintain privacy for abutting lots and to provide usable outdoor recreation areas for proposed development.*

Finding: Scrivener's error; incorrect Section. Therefore, this proposed amendment better implements the City's Comprehensive Plan and implementing ordinances by promoting consistency among the Code Sections.

Chapter 18.430 SUBDIVISIONS

18.430.030 Approval Process

B. Review of final plat. *Review of a final plat for subdivision shall be processed by means of a Type I procedure, as governed by Section 18.390, using approval criteria contained in Section ~~18.430.080~~ **18.430.070***

Finding: Scrivener's error; incorrect Section reference. Therefore, this proposed amendment better implements the City's Comprehensive Plan and implementing ordinances by promoting consistency among the Code Sections.

Chapter 18.510 RESIDENTIAL ZONING DISTRICTS

18.510.060 Accessory Structures

A. Permitted uses. *Accessory structures are permitted by right in all residential zones subject to the following:*

2. Non-dimensional requirements:

- b. *An accessory structure shall comply with all of the requirements of the ~~Uniform Building Code~~. **State Building Code** All accessory structures except those less than 120 square feet in size require a building permit;*

Finding: The "Uniform Building Code (UBC)" has been updated to the "State Building Code". Therefore, this proposed amendment better implements the City's Comprehensive Plan and implementing ordinances by being congruent with State reference documents.

18.510.020 List of Zoning Districts

H. R-40: ~~Medium~~ High-Density Residential District. The R-40 zoning district is designed to accommodate existing housing of all types and new attached single-family and multi-family housing units with no minimum lot size or maximum density. A limited amount of neighborhood commercial uses is permitted outright and a wide range of civic and institutional uses are permitted conditionally.

Finding: This amendment is proposed because the existing text is inconsistent with the Tigard Comprehensive Plan. According to the Comprehensive Plan, “Medium-High Density Residential” includes the R-25 zone, not the R-40 zone. Therefore, this proposed amendment better implements the City’s Comprehensive Plan and implementing ordinances by promoting consistency among the these two documents.

Chapter 18.520 COMMERCIAL ZONING DISTRICTS

TABLE 18.520.1
USE TABLE: COMMERCIAL ZONES

USE CATEGORY	C-N ^[1]	C-C ^[5]	C-G	C-P	CBD	MUE ^[20]	MUC-1	MUC ^[28]	MUE 1 and 2 ^[28]	MUR 1 and 2 ^[28]
CIVIC (INSTITUTIONAL)										
Basic Utilities	C	N C ^[32]	N C ^[32]	C	C	C	C	C ^[32]	C ^[32]	C ^[32]
Colleges	N	N	N	N	N	C	C	C	C	C
Community Recreation	N	P	N	N	P	C	N	P	C	C
Cultural Institutions	P	P	P	P	P	P	P	P	P	N
Day Care	P	P	P	P	P	P	P	P	P	P/C ^[33]
Emergency Services	P	P	P	P	P	P	P	P	P	N
Medical Centers	C	N	C	C	C	C	C	C	C	C
Postal Service	P	P	P	P	P	P	P	P	P	N
Public Support Facilities	P	P	P	P	P	P	P	P	P	P
Religious Institutions	C	C	P	C P	P	P	C P	P	P	C
Schools	N	N	N	N	N	C	C	C	C	C
Social/Fraternal Clubs/Lodges	C	C	P	P	P	P	P	P	P	C
COMMERCIAL										
Commercial Lodging	N	N	P	R ^[14]	P	P	P	P	P	N
Eating and Drinking Establishments	C	P	P	R ^[15]	P	P	P	P	P	R ^[34/35]

Finding: Because churches are currently a conditional use while social and fraternal clubs are permitted has been a litigated situation. Additionally, the amendment conditionally permits basic utilities in the C-C and C-G zones. This was an oversight when transferring uses from the original code to the existing version. Therefore, this proposed amendment better implements the City’s Comprehensive Plan and implementing ordinances by adhering to land use law precedence.

18.520.030 Uses

C. Accessory structures.

1. Accessory structures are permitted in all commercial zones providing the site is still in compliance with all development standards, including but not limited to setbacks, height, lot coverage and landscaping requirements, of the base zone. All accessory structures shall comply with all requirements of the ~~Uniform Building Code~~. **State Building Code** All accessory structures except those less than 120 square feet in size require a building permit;

Findings: The “Uniform Building Code (UBC)” has been updated to the “State Building Code”. Therefore, this proposed amendment better implements the City’s Comprehensive Plan and implementing ordinances by being congruent with State reference documents.

TABLE 18.520.1 USE TABLE: COMMERCIAL ZONES

USE CATEGORY	C-N ^[1]	C-C ^[5]	C-G	C-P	CBD	MUE ^[20]	MUC-1	MUC ^[28]	MUE 1 and 2 ^[28]	MUR 1 and 2 ^[28]
Detention Facilities	N	N	C	N	C	N	N			
Heliports	N	N	C	C	C	N	N			
Mining	N	N	N	N	N	N	N			
Wireless Communication Facilities	P/R ^[3]	P/R ^[3]	P/R ^[3]	P/R ^[3]	P/R ^[3]	P/R ^[3]	P/R ^[27]			
Rail Lines/Utility Corridors	P	P	P	P	P	P	P			
Other	C ^[4]	C ^[10]	NA	NA	C ^[19]	NA	NA			

P=Permitted R=Restricted C=Conditional Use **NA=Not Applicable** N=Not Permitted

~~{13}Multi-family residential units, developed at R-40 standards, as a mixed-use in conjunction with commercial development on or above the second floor of the structure, only in the C-P District within the Tigard Triangle and Bull Mountain Road district.~~

[21]Multi-family residential, at 25 units/gross acre, allowed outright. Pre-existing detached **and attached** single-family dwellings are permitted outright.

Finding: The language in the zoning code allows attached single family residential. If this is not reflected in this table, all multi-family becomes a substantial review not intended. Additionally, there is no Bull Mtn. CP district and there is no longer CP district in the Triangle.

18.520.040 Development Standards

A. **Compliance required.** All development must comply with:

1. All of the applicable development standards contained in the underlying zoning district, except where the applicant has obtained variances or adjustments in accordance with Sections ~~18.310 and 18.320~~ **18.370**;

Finding: Scrivener’s error; incorrect Section reference. Therefore, this proposed amendment better implements the City’s Comprehensive Plan and implementing ordinances by promoting consistency among the Code Sections.

Chapter 18.530 INDUSTRIAL ZONING DISTRICTS

**TABLE 18.530.1
USE TABLE: INDUSTRIAL ZONES**

USE CATEGORY	I-P	I-L	I-H
RESIDENTIAL			
Household Living	R ¹	R ¹	R ¹
Group Living	N	N	N
Transitional Housing	N	N	N
Home Occupation	N	N	N
CIVIC (INSTITUTIONAL)			
Basic Utilities	C ¹²	C ¹²	P
Colleges	N	N	N
Community Recreation	C ¹⁰	C ¹⁰	C ¹⁰
Cultural Institutions	N	N	N
Day Care	R ^{3,9}	R ^{3,9}	R ^{3,9}
Emergency Services	P	P	P
Medical Centers	N	N	N
Postal Service	P	P	P
Public Support Facilities	P	P	P
Religious Institutions	N	N	N

Schools	N	N	N
Social/Fraternal Clubs/Lodges	N	N	N
COMMERCIAL			
Commercial Lodging	P	N	N
Eating and Drinking Establishments	R ²	N	N
Entertainment-Oriented			
- Major Event Entertainment	N	N	N
- Outdoor Entertainment	P	N	N
- Indoor Entertainment	P	N	N
- Adult Entertainment	N	N	N
General Retail			
- Sales-Oriented	R ²	N	N
- Personal Services	R ²	N	N
- Repair-Oriented	P	N	N
- Bulk Sales	R ^{4, 11}	N	N
- Outdoor Sales	N	P	P
- Animal-Related	P	P	P
Motor Vehicle Related			
- Motor Vehicle Sales/Rental	N	P	P
- Motor Vehicle Servicing/Repair	C	P	P
- Vehicle Fuel Sales	P	P/C ⁷	P
Office	P	N	N
Self-Service Storage	P	P	P
Non-Accessory Parking	P	P	P

⁹Day care uses with over 5 children are permitted subject to an Environmental Impact Assessment in accordance with Section 18.530.050.C.1. The design of the day care must fully comply with State of Oregon requirements for outdoor open space setbacks.

¹⁰Limited to outdoor Recreation on (1.) land classified as floodplain on City flood maps, when the recreational use does not otherwise preclude future cut and fill as needed in order to develop adjoining industrially zoned upland; and (2.) land located outside the floodplain as shown on City flood maps, when the Recreation Use is temporary and does not otherwise preclude allowed uses or Conditional Uses other than Recreation within the district.

¹¹These limited uses, shall only be allowed in IP zoned property east of SW 72nd Avenue. These uses, separately or in combination shall not exceed 60,000 square feet of gross leasable area in a single building, or commercial retail uses with a total of more than 60,000 square feet of retail sales area on a single lot or parcel, or on contiguous lots or parcels, including those separated only by transportation right-of-way. (Ord. 04-14)

¹²Except water and storm and sanitary sewers, which are allowed by right.

Finding: This was an oversight when transferring uses from the original code to the existing version. Therefore, this proposed amendment better implements the City’s Comprehensive Plan and implementing ordinances by creating consistency among Code Sections.

Chapter 18.640 DURHAM QUARRY DESIGN STANDARDS

~~18.640.070 Reserved~~

18.640.070 Signs

A. In addition to the requirements of Section 18.780 of the Development Code, the following standards shall be met:

- 1. Zoning District regulations. Residential only developments within the MUC-1 shall meet the sign requirements for the R-40 zone Section 18.780.130.B; non residential development within the MUC-1 shall meet the requirements of the C-P zone, Section 18.780.130.D.**
- 2. Sign area limits. The maximum sign area limits found in Section 18.780.130 shall not be exceeded, no area limit increase will be permitted.**
- 3. Height limits. The maximum height limit for all signs except wall signs shall be 10 feet. Wall signs shall not extend above the roof line of the wall on which the signs is located. No height increases will be permitted.**
- 4. Sign location. Freestanding signs within the Durham Quarry shall not be permitted within the required L-1 landscape areas.**

Finding: This amendment is proposed because the Durham Quarry does not have sign standards listed in its section. Staff has been using the CP standards but there is no actual linkage in the code. These were the standards used for Washington Square from which the Quarry standards were chosen. This proposal is to add District-specific sign standards. Therefore, this proposed amendment better implements the City's Comprehensive Plan and implementing ordinances by promoting consistency among the Code Sections.

Chapter 18.705 ACCESS, EGRESS, AND CIRCULATION

18.705.030 General Provisions

L. Director's authority to restrict access. The Director has the authority to restrict access when the need to do so is dictated by one or more of the following conditions:

- 4. A decision by the Director per 18.705.030 ~~L.1-3.~~ above may be appealed by means of a Type II procedure, as regulated by Section 18.390.040, using criteria contained in Section 18.370.020 C3. (Ord. 06-20, Ord. 02-33)*

Finding: Scrivener's error; incorrect Section reference. Therefore, this proposed amendment better implements the City's Comprehensive Plan and implementing ordinances by promoting consistency among the Code Sections.

Chapter 18.710 ACCESSORY RESIDENTIAL UNITS

18.710.020 Standards

B. Limitations. An accessory residential unit is permitted providing there is compliance with all of the following standards:

- 3. The number of residents permitted to inhabit the accessory residential unit is regulated by the ~~Uniform Building Code~~ **State Building Code**;*

Finding: The "Uniform Building Code (UBC)" has been updated to the "State Building Code". Therefore, this proposed amendment better implements the City's Comprehensive Plan and implementing ordinances by being congruent with State reference documents.

Chapter 18.715 DENSITY COMPUTATIONS

18.715.020 Density Calculation

A. Definition of net development area. Net development area, in acres, shall be determined by subtracting the following land area(s) from the gross acres, which is all of the land included in the legal description of the property to be developed:

- 3. All land dedicated for public rights-of-way. When actual information is not available, the following formulas may be used:*
 - b. Multi-family development: allocate 15% of gross acreage **or deduct the actual private drive area.***

Finding: This proposed amendment makes clear that private drive in multi-family projects would be deducted as a private street in lieu of using 15%.

18.715.030 Residential Density Transfer

B. Underlying development standards. All density transfer development proposals shall comply with the development standards of the applicable underlying zoning district unless developed under the provisions of Section ~~48.440~~ **18.350**, Planned Development. (Ord. 06-20)■

Finding: Scrivener's error; incorrect Section reference. Therefore, this proposed amendment better implements the City's Comprehensive Plan and implementing ordinances by promoting consistency among the Code Sections.

Chapter 18.730 EXCEPTIONS TO DEVELOPMENT STANDARDS

18.730.020 Exceptions to Building Height Limitations

C. Building heights and flag lots.

2. The maximum height for an attached or detached single-family, duplex, or multiple-family residential structure on a flag lot or a lot having sole access from an access way, private drive or easement is 1-1/2 stories or 25 feet, whichever is less, except that the maximum height may be 2-1/2 stories or 35 feet, whichever is less, provided:

a. The proposed dwelling otherwise complies with the applicable dimensional **and height** requirements of the zoning district;

Finding: This section describes 2 and 1/2 stories or 35 feet, but the limit in the code in R-1, R-2, R-3.5 and R-4.5 zones is 30 feet. This proposed amendment synchronizes this section with Table 510.2.

Chapter 18.742 HOME OCCUPATIONS

18.742.040 General Approval Criteria and Standards

A. General criteria. All home occupations except those that have proven nonconforming status shall observe the following criteria in addition to the standards established for Type I and Type II Uses described in Section 18.742.050 of this Section.

5. A home occupation shall not make necessary a change in the ~~Uniform Building Code~~ **State Building Code** use classification of a dwelling unit. Any accessory building that is used must meet ~~Uniform Building Code~~ **State Building Code** requirements;

Finding: The "Uniform Building Code (UBC)" has been updated to the "State Building Code". Therefore, this proposed amendment better implements the City's Comprehensive Plan and implementing ordinances by being congruent with State reference documents.

Chapter 18.745 LANDSCAPING AND SCREENING

18.745.050.E. Screening: special provisions.

3. Screening of swimming pools. All swimming pools shall be enclosed as required by ~~City of Tigard Building Code~~ **State Building Code**;

Finding: The "Uniform Building Code (UBC)" has been updated to the "State Building Code". Therefore, this proposed amendment better implements the City's Comprehensive Plan and implementing ordinances by being congruent with State reference documents.

18.745.040 Street Trees

G. Granting of adjustments. Adjustments to the street tree requirements may be granted by the Director by means of a Type I procedure, as regulated in Section 18.390.030, using approval criteria in Section ~~48.370.020.C.4.b.~~ **18.370.020.C.6.b.**

Findings: Scrivener's error; incorrect Section. Therefore, this proposed amendment better implements the City's Comprehensive Plan and implementing ordinances by promoting consistency among the Code Sections.

Chapter 18.760 NON-CONFORMING SITUATIONS

18.760.040 Criteria for Nonconforming Situations

D. Nonconforming use of structures

2. If a single structure or a structure and premises containing a number of lawful uses (except for a single accessory structure) existed as of March 16, 1983, and those uses would not be allowed in the zoning district in which they are located, or which are nonconforming because of inadequate off-street parking, landscaping or other deficiency (under the terms of this Section or amendment thereto), the lawful uses may be continued so long as they remain otherwise lawful, subject to the following provisions:
 - e. When the use of the structure, including all uses, is discontinued or abandoned for three months, the structure and premises shall not thereafter be used except in full conformity with all regulations of the zoning district in which it is located. ~~For purposes of this Section, a use shall be deemed to be discontinued or abandoned upon the occurrence of the first of any of the following events:~~

Finding: There are no events listed in the Code, reference to events is removed. Therefore, this proposed amendment better implements the City's Comprehensive Plan and implementing ordinances by promoting consistency among the Code Sections.

Chapter 18.765 OFF-STREET PARKING AND LOADING REQUIREMENTS

Table 18.765.2 Minimum and Maximum Required Off-street Vehicle and Bicycle Parking Requirements (Cont.)

	MINIMUM	MAXIMUM ¹		
		ZONE A	ZONE B	BICYCLE ²
Motor Vehicle Related				
Motor Vehicle Sales/Rental	1.0/1,000 but no less than 4.0	1.3/1,000 but no less than 4.0	2.0/1,000 but no less than 4.0	0.2/1,000 sales area
Motor Vehicle Servicing/Repair	2.0/1,000 but no less than 4.0	2.3/1,000 but no less than 4.0	2.6/1,000 but no less than 4.0	0.2/1,000
Vehicle Fuel Sales	3.0+2.0/service bay	4.0+2.0/service bay	4.0+2.5/service bay	0.2/1,000
Office Medical / Dental Office	2.7/1,000 (M) 3.9/1,000 (M)	3.4/1,000 (M) 4.9/1,000 (M)	4.1/1,000 (M) 5.9/1,000 (M)	0.5/1,000 0.4/1,000
Self-Service Storage	1.0/4 storage units	1.0/4 storage units	1.0/2 storage units	1.0/40 storage units
Non-Accessory Parking	none	none	none	none

Finding: The Medical/Dental office use was omitted in the original code. This clarifies use standards.

18.765.030 General Provisions

G. Disabled-accessible parking. All parking areas shall be provided with the required number of parking spaces for disabled persons as specified by the ~~State of Oregon Uniform Building Code~~ **State Building Code** and federal standards. Such parking spaces shall be sized, signed and marked as required by these regulations.

Finding: The "Uniform Building Code (UBC)" has been updated to the "State Building Code". Therefore, this proposed amendment better implements the City's Comprehensive Plan and implementing ordinances by being congruent with State reference documents.

18.765.040 General Design Standards

D. On-site vehicle stacking for drive-in use.

2. The Director may reduce the length of the inbound stacking lane by means of an adjustment to be reviewed through a Type I procedure, as governed by Section ~~18.320.300~~ **18.390.030**, using approval criteria contained in Section ~~18.370.020.C.5.g~~ **18.370.020.C.7.g**.

Finding: Scrivener's error; incorrect Section reference. Therefore, this proposed amendment better implements the City's Comprehensive Plan and implementing ordinances by promoting consistency among the Code Sections.

18.765.070 *Minimum and Maximum Off-Street Parking Requirements*

- F. *Reductions in minimum required vehicle parking. Reductions in the required number of vehicle parking spaces may be permitted as follows:*
1. *The Director may reduce off-street vehicle parking spaces per Section 18.765.070.H by up to 20% in new developments for the incorporation of transit-related facilities such as bus stops and pull-outs, bus shelters, transit-oriented developments and other transit-related development through a Type II procedure, as governed by Section 18.390.040, using approval criteria contained in Section ~~18.370.020.C.5.b~~ **18.370.020.C.7.b**. Applicants who qualify for this adjustment may also apply for further parking reductions per 18.765.070.F.2.below;*
 2. *The Director may reduce the total required off-street vehicle parking spaces per Section 18.765.070.H by up to a total of 20% by means of parking adjustment to be reviewed through a Type II procedure, as governed by Section 18.390.040, using approval criteria contained in Section ~~18.370.020.C.5.a~~ **18.370.020.C.7.a**.*
 3. *The Director is authorized to reduce up to 10% of existing required parking spaces at a conversion ratio of one parking space for each 100 square feet of transit facility for developments which incorporate transit-related facilities such as bus stops and pull-outs, bus shelters, transit-oriented development or other transit-related facilities through a Type I procedure, as governed by Section 18.390.030, using approval criteria contained in Section ~~18.370.020.C.5.c~~ **18.370.020.C.7.c**.*

Finding: Scrivener's error; incorrect Section reference. Therefore, this proposed amendment better implements the City's Comprehensive Plan and implementing ordinances by promoting consistency among the Code Sections.

Chapter 18.775 SENSITIVE LANDS

18.775.020 *Applicability of Uses: Permitted, Prohibited, and Nonconforming*

E. *Administrative sensitive lands review.*

1. *Administrative sensitive lands permits in the 100-year floodplain, drainage way, slopes that are 25% or greater, and unstable ground shall be obtained from the appropriate community development division for the following:*
 - a. *The City Engineer shall review the installation of public support facilities ~~such as underground utilities and construction of roadway improvements including sidewalks, curbs, streetlights, and driveway aprons~~ by means of a Type I procedure, as governed by Section 18.390.030 subject to compliance with all of the standards in this Section;*

Finding: This amendment is proposed to make the Code consistent with proposed amendments for Section 18.120.030, Meaning of specific words and terms A.117 "public support facilities". Therefore, this proposed amendment better implements the City's Comprehensive Plan and implementing ordinances by promoting consistency among the Code Sections.

Chapter 18.780 SIGNS

18.780.015 *Definitions*

A. *Definitions. As used in this title, unless the context requires otherwise, the following words and phrases shall have the meanings set forth in this Section. The definitions to be used in this Section are in addition to Section 18.110, Definitions, and are as follows:*

8. *"Billboard" means a freestanding sign in excess of the maximum size allowed, with adjustments, in the locations where it is located or proposed to be located. **Billboards are prohibited by Tigard Code Section 18.780.070.M: Certain Signs Prohibited.***

Finding: The existing text describes Freeway-oriented sign and implies billboards which are prohibited. The Oregon Motorist Information Act provides for billboards while the City's code prohibits by 18.780.070.m. To make the code more clear, this amendment is proposed to note that billboards are prohibited by 18.780.070.m. Therefore, this proposed amendment better implements the City's Comprehensive Plan and implementing ordinances by promoting consistency among the Code Sections.

18.780.020 *Permits Required*

C. *Compliance with ~~UBC~~ **State Building Code**. Separate structural permits under the ~~Uniform Building Code~~ **State***

Building Code shall also apply.

Finding: The “Uniform Building Code (UBC)” has been updated to the “State Building Code”. Therefore, this proposed amendment better implements the City’s Comprehensive Plan and implementing ordinances by being congruent with State reference documents.

18.780.070 Certain Signs Prohibited

B. Unsafe signs or improperly maintained signs. No sign shall be constructed, erected or maintained unless the sign and sign structure is so constructed, erected and maintained as to be able to withstand the wind, seismic and other requirements as specified in the ~~Uniform Building Code~~ **State Building Code** or this title.

Finding: The “Uniform Building Code (UBC)” has been updated to the “State Building Code”. Therefore, this proposed amendment better implements the City’s Comprehensive Plan and implementing ordinances by being congruent with State reference documents.

18.780.140 Sign Code Adjustments

A. Adjustments. The Director may grant an adjustment to the requirements of this Section by means of a Type I or Type II procedure, as governed by Section 18.390, using approval criteria in Section ~~18.370.020 C.6.~~ **18.370.020 C.8.**

Finding: Scrivener’s error; incorrect Section reference. Therefore, this proposed amendment better implements the City’s Comprehensive Plan and implementing ordinances by promoting consistency among the Code Sections.

18.780.130 Zoning District Regulations

E. In the C-N and C-C zones. No sign shall be permitted in the C-N and ~~CBG~~ **C-C** zones except for the following:

Finding: Scrivener’s error; incorrect Zoning District reference. Therefore, this proposed amendment better implements the City’s Comprehensive Plan and implementing ordinances by promoting consistency among the Code Sections.

18.780.015 Definitions

A. Definitions. As used in this title, unless the context requires otherwise, the following words and phrases shall have the meanings set forth in this Section. The definitions to be used in this Section are in addition to Section 18.110, Definitions, and are as follows:

7. “Bench sign” means a bench designed to seat people which carries a written or graphic message; **means a bench designed to seat people with a sign painted or affixed on the surface.**

Finding: This amendment effectively removes any reference to content of the sign. Content is not permitted to be regulated by federal law. This amendment addresses the City Attorney’s concern provided by Gary Firestone. Therefore, this proposed amendment better implements the City’s Comprehensive Plan and implementing ordinances by being congruent with contemporary land use law.

Chapter 18.798 WIRELESS COMMUNICATION FACILITIES

18.798.060.B. Review criteria. Any use subject to review per Section A above, shall be evaluated using the following standards:
3. Setbacks: Towers shall be set back from the property line by a distance equal to the height of the tower. A Type II adjustment may be obtained to reduce this setback, subject to criteria of approval contained in Section 18.370.020.C. ~~8~~ **10**;

Finding: Scrivener’s error; incorrect Section. Therefore, this proposed amendment better implements the City’s Comprehensive Plan and implementing ordinances by promoting consistency among the Code Sections.