



TUALATIN CITY COUNCIL MEETING

MONDAY, DECEMBER 13, 2021

JUANITA POHL CENTER
8513 SW TUALATIN ROAD
TUALATIN, OR 97062

Mayor Frank Bubenik
Council President Nancy Grimes
Councilor Valerie Pratt Councilor Bridget Brooks
Councilor Maria Reyes Councilor Cyndy Hillier
Councilor Christen Sacco

To the extent possible, the public is encouraged to watch the meeting live on local cable channel 28, or on the City's website.

For those wishing to provide comment during the meeting, there is one opportunity on the agenda: Public Comment. Written statements may be sent in advance of the meeting to Deputy City Recorder Nicole Morris up until 4:30 pm on Monday, December 13. These statements will be included in the official meeting record, but not read during the meeting.

For those who would prefer to make verbal comment, there are two ways to do so: either by calling in using the number below or entering the meeting using the zoom link and writing your name in chat. As always, public comment is limited to three minutes per person.

Phone: +1 669 900 6833

Meeting ID: 861 2129 3664

Password: 18880

Link: <https://us02web.zoom.us/j/86121293664?pwd=SS9XZUZyT3FnMk5rbDVKN2pWbnZ6UT09>

Work Session

- 1. 5:30 p.m. (40 min) – Washington County Supportive Housing Services Implementation Update.** The Supportive Housing Services measure was approved by voters in 2020. Washington County staff will present information about implementation of goals, programs, investments, and reporting within Washington County
 - 2. 6:10 p.m. (20 min) – Tualatin Area Ice Age Floods Foundation Update.** Members of the Ice Age Floods Foundation will present information about their vision, goals, and status of their work.
 - 3. 6:30 p.m. (30 min) – Council Meeting Agenda Review, Communications & Roundtable.** Council will review the agenda for the December 13th City Council meeting and brief the Council on issues of mutual interest.
-

7:00 P.M. CITY COUNCIL MEETING

Call to Order

Pledge of Allegiance

Moment of silence for those who have lost their lives to COVID-19

Public Comment

This section of the agenda allows anyone to address the Council regarding any issue not on the agenda, or to request to have an item removed from the consent agenda. The duration for each individual speaking is limited to 3 minutes. Matters requiring further investigation or detailed answers will be referred to City staff for follow-up and report at a future meeting.

Consent Agenda

The Consent Agenda will be enacted with one vote. The Mayor will ask Councilors if there is anyone who wishes to remove any item from the Consent Agenda for discussion and consideration. If you wish to request an item to be removed from the consent agenda you should do so during the Citizen Comment section of the agenda.

1. Consideration of Approval of the Work Session and Regular Meeting Minutes of November 22, 2021
2. Consideration of **Resolution No. 5586-21** Awarding the Contract for Construction of the Tualatin Road (Sweek Drive to Community Park) Phase 2 Project, Part of the Tualatin Moving Forward Bond Program
3. Consideration of **Resolution No. 5587-21** Authorizing the City Manager to Execute an Amendment to an Intergovernmental Agreement with Clean Water Services for the Martinazzi Sanitary Sewer Upsizing Phase 1 Project

Special Reports

1. Equitable Housing Solutions Meeting (Severely Rent Burdened Public Meeting) Recap

Public Hearings - Legislative or Other

1. Consideration of **Ordinance No. 1463-21** the Planning Commission's Recommendation on Amendments (PTA 21-0002) to the Tualatin Development Code to Implement Oregon Middle Housing Code Requirements (HB 2001)

General Business

If you wish to speak on a general business item please fill out a Speaker Request Form and you will be called forward during the appropriate item. The duration for each individual speaking is limited to 3 minutes. Matters requiring further investigation or detailed answers will be referred to City staff for follow-up and report at a future meeting.

1. Tualatin Moving Forward Fourth Annual Report
2. Consideration of **Resolution No. 5589-21** Authorizing the City Manager to Execute Settlement Documents Related to the National Opioid Litigation

3. Consideration of **Ordinance No. 1462-21** Related to Parking; and Amending Tualatin Municipal Code Chapter 8-1 to Delegate Authority to the City Manager to Regulate Parking at City Offices and Library Parking Areas, and All City Employee Parking

Items Removed from Consent Agenda

Items removed from the Consent Agenda will be discussed individually at this time. The Mayor may impose a time limit on speakers addressing these issues.

Council Communications

Adjournment

Meeting materials, including agendas, packets, public hearing and public comment guidelines, and Mayor and Councilor bios are available at www.tualatinoregon.gov/council.

Tualatin City Council meets are broadcast live, and recorded, by Tualatin Valley Community Television (TVCTV) Government Access Programming. For more information, contact TVCTV at 503.629.8534 or visit www.tvctv.org/tualatin.

In compliance with the Americans with Disabilities Act, this meeting location is accessible to persons with disabilities. To request accommodations, please contact the City Manager's Office at 503.691.3011 36 hours in advance of the meeting.



Washington County

Supportive Housing Services

Fall 2021 Implementation Update
Tualatin City Council

December 13, 2021

Department of Housing Services

co.washington.or.us



SHS Measure Background



- Approved by voters on May 19, 2020 with 58% support
- Built and championed by a broad regional coalition of business and community leaders. Estimated to generate more than \$200 million per year
- Scaled to achieve functional zero chronic homelessness regionally
- Largest per capita investment to address homelessness in the nation



SHS: Building a System of Care



Patrick's Story

- ❖ Shelter
- ❖ Case manager
- ❖ Rent assistance subsidy
- ❖ Home



Patrick with Good Neighbor Center case managers



SHS: Programs Launched



Bridge Shelter Programs

- Housing focused shelter program
- 102 new year-round shelter beds
 - Hillsboro- *former Econo Lodge* (60)
 - Aloha Inn (22)
 - Forest Grove Inn (20)



Bridge Shelter at Aloha Inn



SHS: Programs Launched



Housing Case Management Program

- 17 partnering service providers
- 2-3 case managers per organization
- 20-30 participants per case manager
- 800 participant slots, 500 housing placement goal for Year 1

Regional Long-term Rent Assistance



Urban League, Bienestar, Greater Good Northwest meet with SHS team



SHS: Systems and Equity Investments



Culturally specific capacity building

- \$50,000 annually, over three years

Training programs for service providers

- Behavioral health, culturally and trauma informed care, housing navigation

Inclusive procurement

- 38 qualified organizations through RFPQ

Community Connect modernization

- 20-minute, trauma-informed assessment



Good Neighbor staff and participants



Outcomes Report / System Baseline



Five primary regional outcome metrics:

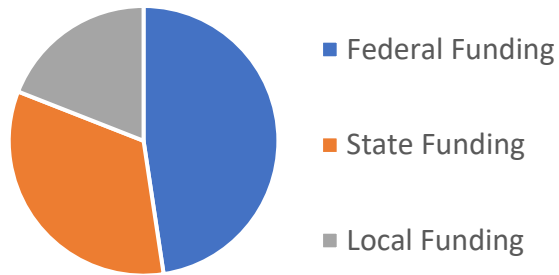
- Program inflow and outflow
 - *843 households assessed, 278 assisted, 393 exited without help, 172 continue to wait*
- System capacity
 - *885 households need permanent supportive housing, only 394 placements*
- Housing placements
 - *Six placed into permanent supportive housing*
- Length of homelessness
 - *1 year for people who get housing, almost 2 years for people still unhoused*
- Returns to homelessness
 - *95% of participants do not return to homeless system*



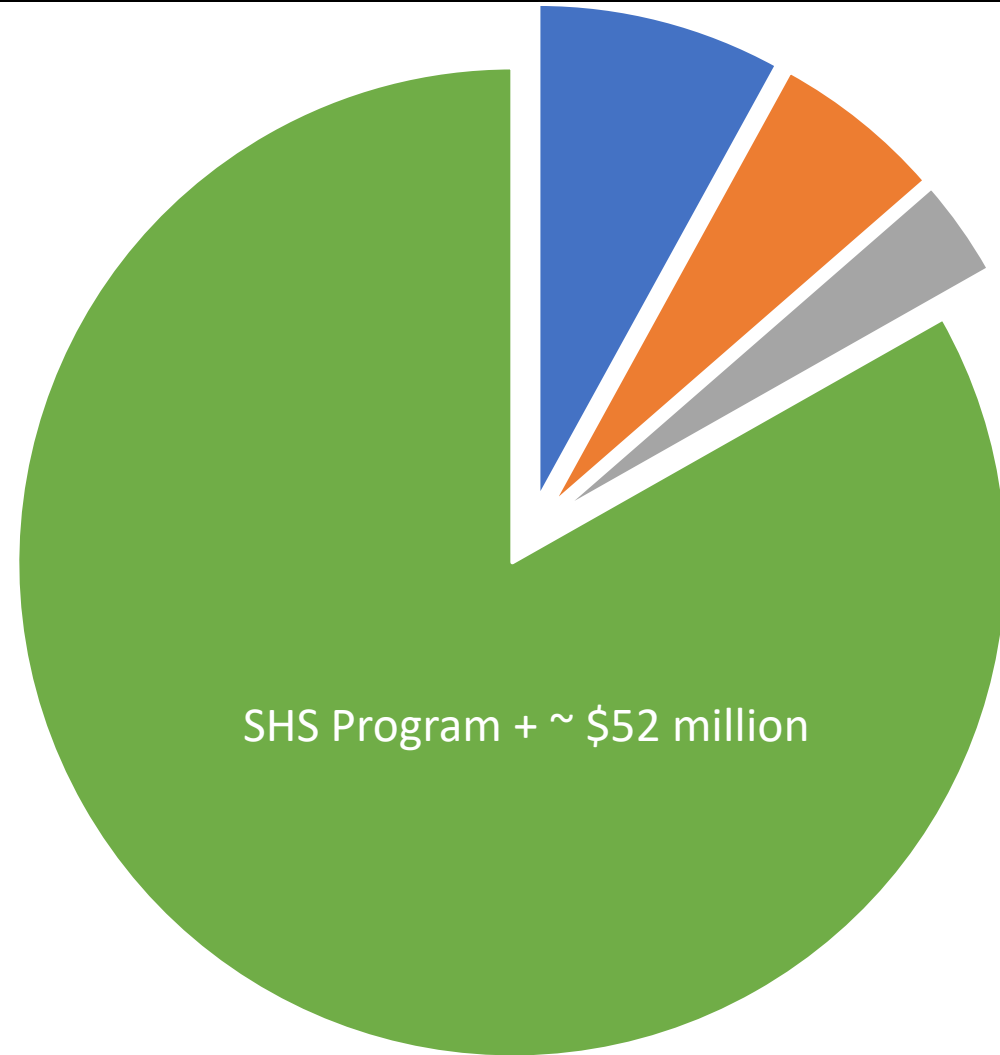
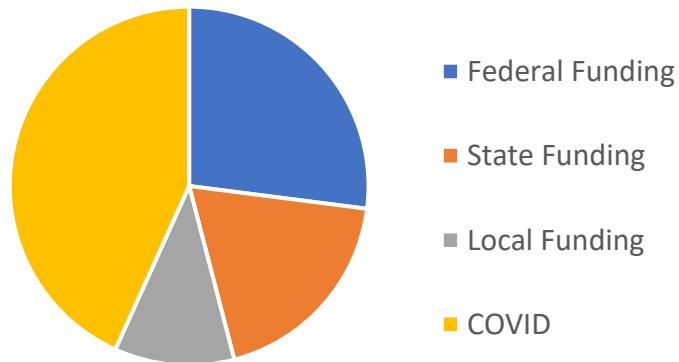
Homeless and Housing Services Funding



Baseline: \$10.5 million



COVID Response + \$8 million





SHS: System Expansion



Permanent Supportive Housing (PSH) funding opportunities announced:

- Aloha Inn PSH program
- PSH in affordable housing

Homeless Plan Advisory Committee (HPAC) expansion



Greater Good NW Staff



SHS: System Expansion



Winter Shelter Program

- 187 shelter beds and motel rooms
- Seasonal only: Nov 15 – March 15
- Life-saving shelter program

Tigard @ Just Compassion (20)

Beaverton @ Community Center (30)

Hillsboro @ Clover Leaf (50)

Motel stays for families and medically vulnerable (87)



Beaverton Community Center



SHS: Program Goals

Year 1:

500 Supportive Housing placements

500 additional households stabilized

100 new year-round shelter beds

Program goals:

1665 Supportive Housing placements

250 additional year-round shelter beds

All outcomes advance racial equity





Tualatin Area Ice Age Floods Foundation

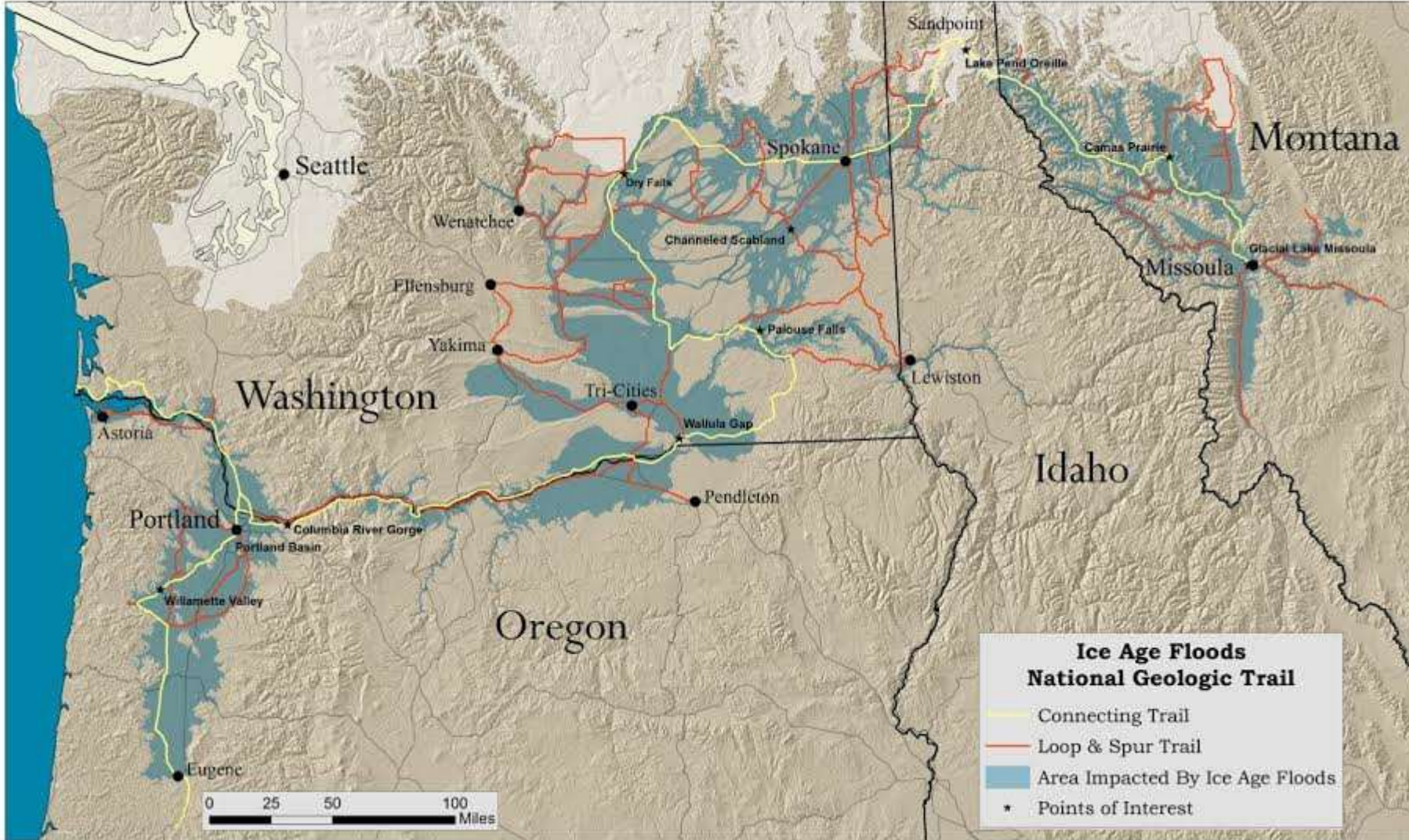


Who We Are



Ice Age Floods National Geologic Trail - Master Trail Map

National Park Service
U.S. Department of the Interior
Ice Age Floods NGT

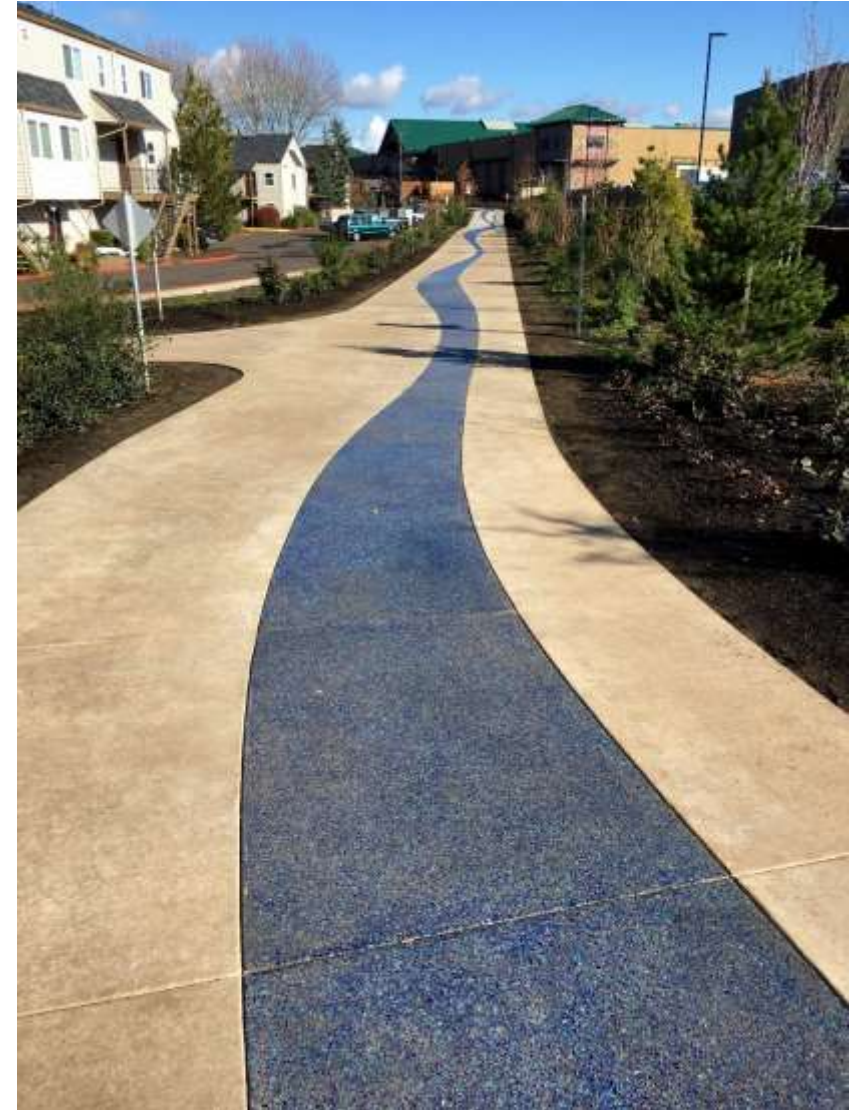


Our Vision

- A visitor's center in Tualatin
 - as part of the National Park Service & Ice Age Floods National Geologic Trail

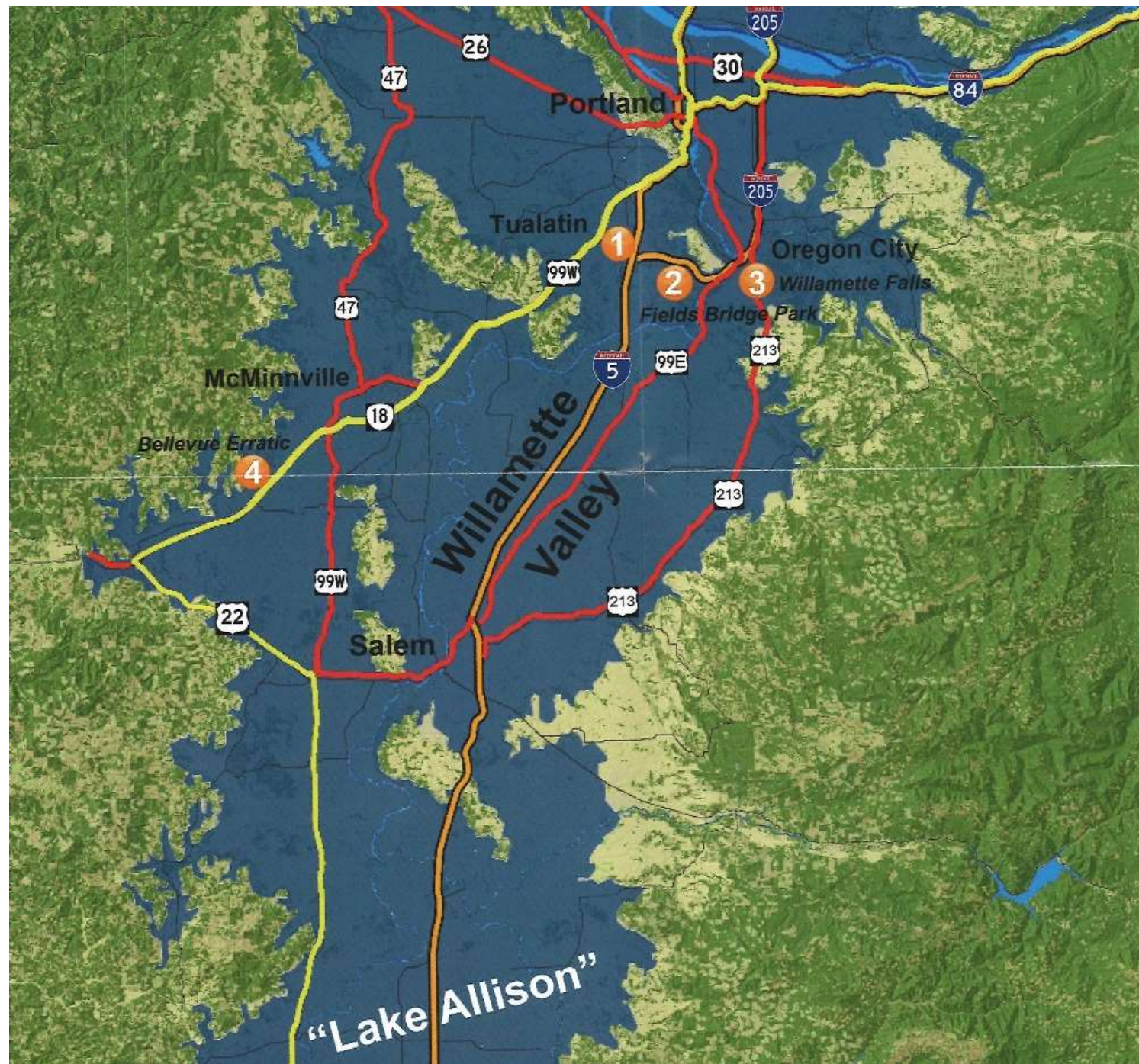
Current Status

- Tualatin Library serves as interim visitor's center
- Tualatin has many trail and park features devoted to the Ice Age Floods



Our Goals

1. Children throughout the region visit, along with many adults
2. Awareness of the natural history of the area (topography and animals)



2020 Mike Full and Andy Fujii
discover a *Castoroides* left mandible



The Giant Ice Age Beaver!



Our Goals

3. Awareness of the native people who lived here first



COSTUME OF A CALLAPUYA INDIAN.

Four Themes of the Visitor's Center

- Big picture of the Ice Age Floods in the Pacific Northwest
- Ice Age Floods locally
- Native people of the region (Kalapuya people)
- Large animals living here when the floods happen

Our Request

- We want to partner with the City of Tualatin
- We are proud of Tualatin and its history
- We want Tualatin to be proud of us





City of Tualatin

CITY OF TUALATIN
Staff Report

TO: Honorable Mayor and Members of the City Council
THROUGH: Sherilyn Lombos, City Manager
FROM: Nicole Morris, Deputy City Recorder
DATE: December 13, 2021

SUBJECT:

Consideration of Approval of the Work Session and Regular Meeting Minutes of November 22, 2021.

RECOMMENDATION:

Staff respectfully recommends the Council adopt the attached minutes.

ATTACHMENTS:

- City Council Work Session Meeting Minutes of November 22, 2021
- City Council Regular Meeting Minutes of November 22, 2021



OFFICIAL MINUTES OF THE TUALATIN CITY COUNCIL MEETING FOR NOVEMBER 22, 2021

Present: Mayor Frank Bubenik, Council President Nancy Grimes, Councilor Bridget Brooks, Councilor Maria Reyes, Councilor Valerie Pratt, Councilor Cyndy Hillier, Councilor Christen Sacco

Call to Order

Mayor Bubenik called the meeting to order at 7:00 p.m.

Pledge of Allegiance

Moment of silence for those who have lost their lives to COVID-19

Announcements

1. Proclamation Declaring November 27, 2021 as Small Business Saturday

Councilor Hillier read the proclamation declaring November 27, 2021 as Small Business Saturday in the City of Tualatin.

The Mayor encouraged all citizens to shop local at small businesses.

Councilor Hillier stated Giving Tuesday is coming and she encouraged citizens to donate.

2. New Employee Introduction- Public Works Director Rachel Sykes

City Manager Lombos introduced Public Works Director Rachel Sykes.

The Council welcomed her.

Public Comment

Zyy, Tualatin Resident, spoke to issues with TriMet and the reliability of service. She stated they are not meeting their time schedule or not coming at all.

Consent Agenda

Motion to adopt the consent agenda made by Council President Grimes, Seconded by Councilor Pratt.

Voting Yea: Mayor Bubenik, Council President Grimes, Councilor Brooks, Councilor Reyes, Councilor Pratt, Councilor Hillier, Councilor Sacco

MOTION PASSED

1. Consideration of Approval of the Work Session and Regular Meeting Minutes of October 25, 2021 and Work Session and Regular Meeting Minutes of November 8, 2021.
2. Consideration of Approval of a New Liquor License Application for Big Stage Production LLC dba At The Garage Eatery & Taphouse.

3. Consideration of **Resolution No. 5583-21** Authorizing The City Manager To Accept Funds For The 2019 Urban Areas Security Initiative (UASI) Grant To Purchase Training Supplies For The Tualatin Community Response Team (CERT)
4. Consideration of **Resolution No. 5584-21** Authorizing the City Manager to Execute an Amendment to an Intergovernmental Agreement with Metro for the Herman Road Project
5. Consideration of **Resolution No. 5585-21** Authorizing the City Manager to Apply to the Oregon Department of Transportation for an Order to Permit the City to Make Alterations to the Tualatin Road Railroad-Highway Crossing and Accept and Implement All Conditions in the Order

Public Hearings - Legislative or Other

1. Middle Housing Code Update- this item has been postponed to December 13, 2021

Council Communications

Councilor Brooks spoke to Tualatin Valley Creates and their Art Pass. She stated she attended the Police Foundation Meeting, noting they held their Turkey Not Tickets event and will be adopting families for the holidays soon.

Councilor Sacco stated the Tualatin High School Football team will be playing in the semi-finals this coming weekend.

Adjournment

Mayor Bubenik adjourned the meeting at 7:23 p.m.

Sherilyn Lombos, City Manager

_____ / Nicole Morris, Recording Secretary

_____ / Frank Bubenik, Mayor



OFFICIAL MINUTES OF THE TUALATIN CITY COUNCIL MEETING FOR NOVEMBER 22, 2021

Present: Mayor Frank Bubenik, Council President Nancy Grimes, Councilor Bridget Brooks, Councilor Maria Reyes, Councilor Valerie Pratt, Councilor Cyndy Hillier, Councilor Christen Sacco

Mayor Bubenik called the meeting to order at 6:15 p.m.

1. Record Holiday Greeting

2. Council Meeting Agenda Review, Communications & Roundtable.

Councilor Brooks stated she attended the Climate Action Plan selection meeting, the Arts Advisory Committee meeting, the Policy Advisory Board meeting, and the Garden Corner Curves opening.

Councilor Pratt stated she attended the Equitable Housing Solutions event, the Climate Action Plan meeting, the C4 Metro meeting, and the Garden Corner Curves event.

Councilor Sacco stated she attend the Student Resource Officer meeting.

Councilor Reyes stated she attended the Garden Corner Curves event.

Mayor Bubenik stated he attended the Garden Corner Curves event, the Metro Mayors Consortium meeting, the Severely Rent Burdened meeting, testified at the Metro Redistricting meeting, the Washington County Coordinating Committee meeting, the Greater Portland Inc. meeting, the Tualatin Chamber of Commerce meeting, and met with Senator Wagner at the Chamber of Commerce.

Adjournment

Mayor Bubenik adjourned the meeting at 6:50 p.m.

Sherilyn Lombos, City Manager

_____ / Nicole Morris, Recording Secretary

_____ / Frank Bubenik, Mayor



City of Tualatin

CITY OF TUALATIN Staff Report

TO: Honorable Mayor and Members of the City Council
THROUGH: Sherilyn Lombos, City Manager
FROM: Mike McCarthy, Principal Transportation Engineer
DATE: December 13, 2021

SUBJECT:

Consideration of **Resolution No. 5586-21** Awarding the Contract for construction of the Tualatin Road (Sweek Drive to Community Park) Phase 2 Project, part of the Tualatin Moving Forward Bond Program.

RECOMMENDATION:

Staff recommends that Council approve the resolution awarding and allowing the City Manager to execute a contract with Brown Contracting, Inc. to construct the Tualatin Road (Sweek Drive to Community Park) Phase 2 Project in the amount of \$198,888.

EXECUTIVE SUMMARY:

The contract will build the Tualatin Road (Sweek Drive to Community Park) Phase 2 Project – which includes installation of widened sidewalk, new curb and gutter, curb ramp replacement, and striping and signing along Tualatin Road from the crosswalk just east of the Police Station to Community Park.

The construction contract was advertised in the Daily Journal of Commerce on October 27, 2021. Two (2) bids were received before the bid period closed on November 16, 2021. Brown Contracting, Inc. submitted the lowest responsible bid for the project in the amount of \$198,888.

OUTCOMES OF DECISION:

Adopting the resolution and authorizing contract execution would allow construction of this project to proceed.

FINANCIAL IMPLICATIONS:

Funds for this project are available in the Transportation Project Fund.

ATTACHMENTS:

Resolution No. 5586-21 Awarding Contract

RESOLUTION NO. 5586-21

A RESOLUTION AWARDING THE CONTRACT FOR CONSTRUCTION OF THE TUALATIN ROAD (SWECK DRIVE TO COMMUNITY PARK) PHASE 2 PROJECT, PART OF THE TUALATIN MOVING FORWARD BOND PROGRAM

WHEREAS, the Tualatin Road (Sweck Drive to Community Park) Phase 2 Project (Project) was advertised for bid in the *Daily Journal of Commerce* on October 27, 2021;

WHEREAS, the City received two (2) bids prior to the close of the bid period on November 16, 2021;

WHEREAS, Brown Contracting Inc., submitted the lowest responsible bid for the Project in the amount of \$198,888; and

WHEREAS, there are funds budgeted for this project in the Transportation Project Fund.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, OREGON, that:

Section 1. The contract for the Project is awarded to Brown Contracting Inc.

Section 2. The City Manager, or the City Manager's designee, is authorized to execute a contract with Brown Contracting Inc., for the Project in the amount of \$198,888.

Section 3. The City Manager, or the City Manager's designee, is authorized to execute Change Orders totaling up to 10% of the original contract amount.

Section 4. This resolution is effective upon adoption.

Adopted by the City Council this 13th day of December, 2021.

CITY OF TUALATIN, OREGON

BY _____
Mayor

APPROVED AS TO FORM

ATTEST:

BY _____
City Attorney

BY _____
City Recorder



City of Tualatin

CITY OF TUALATIN Staff Report

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager

FROM: Casey Fergeson, Project Engineer
Heidi Springer, City Engineer

DATE: December 13, 2021

SUBJECT:

- Consideration of **Resolution No. 5587-21** Authorizing the City Manager to Execute an Amendment to an Intergovernmental Agreement with Clean Water Services for the Martinazzi Sanitary Sewer Upsizing Phase 1 Project.

RECOMMENDATION:

- Staff recommends Council authorize the City Manager to sign the Amendment to the Intergovernmental Agreement

EXECUTIVE SUMMARY:

- This Amendment revises a March 29, 2021 Intergovernmental Agreement between Tualatin and Clean Water Services to upsize eight segments of sanitary sewer on the SW Martinazzi trunk line corridor.
- The project was endorsed by the Capital Improvement Program Prioritization Committee made up of representatives from CWS and the partner agencies. The Committee authorized a not-to-exceed amount of \$841,800.00 toward the cost of the project.
- During project engineering, it was determined that;
 - Water utilities required relocating due to conflicts with construction of the sewer.
 - A temporary access and construction easement was necessary for construction.
 - An additional sewer line segment required upsizing due to a flatter than expected slope.
 - A construction contingency needed to be provided.
- This additional project scope and associated cost of \$300,000.00 is endorsed by the Capital Improvement Program Prioritization Committee.
- An Amendment to the Intergovernmental Agreement will provide a revised not-to-exceed amount of \$1,141,800.00.

OUTCOMES OF DECISION:

- Authorizing the City Manager to sign the Amendment to the IGA will allow the work to proceed with the City assuming the role of managing partner and Clean Water Services assuming the role of financial partner.

ALTERNATIVES TO RECOMMENDATION:

- Council could decide not to authorize signature of this Amendment. This would result in the City not receiving additional SDC funding from Clean Water Services.

FINANCIAL IMPLICATIONS:

The City's share of the cost of the proposed project cost is zero dollars. Clean Water Services has agreed, through this Amendment to the IGA, to incur all costs associated with this sewer.

ATTACHMENTS:

- Resolution 5587-21 Authorizing the City Manager to execute an Amendment to the IGA with Clean Water Services
- Intergovernmental Agreement Amendment with Clean Water Services

RESOLUTION NO. 5587-21

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AMENDMENT TO AN INTERGOVERNMENTAL AGREEMENT WITH CLEAN WATER SERVICES FOR THE MARTINAZZI SANITARY SEWER UPSIZING PHASE 1 PROJECT

WHEREAS, the City of Tualatin is an Oregon municipal corporation;

WHEREAS, Clean Water Services is a county service district formed under ORS Chapter 451;

WHEREAS, ORS 190 authorizes the City and Clean Water Services to enter into an intergovernmental agreement and to delegate authority to perform their respective functions;

WHEREAS, on or about March 29, 2021, Clean Water Services and the City entered into an Intergovernmental Agreement for construction of the Martinazzi Sanitary Sewer Upsizing Phase 1 Project to provide sufficient hydraulic capacity in the sewer system.

WHEREAS, during the project engineering design stage, the City determined that project costs were more than anticipated;

WHEREAS, the parties wish to amend the Intergovernmental Agreement to allow additional SDC funding from Clean Water Services to be used to complete the revised scope of work for a revised not-to-exceed amount of \$1,141,800.00.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, OREGON, that:

Section 1. The City Manager is authorized to execute an Amendment to the Intergovernmental Agreement with Clean Water Services for the Martinazzi Sanitary Sewer Upsizing Phase 1 Project, which is attached as Exhibit 1, and incorporated by reference.

Section 2. The City Manager is authorized to make administrative modifications to the Intergovernmental Agreement to fully implement its intent.

Section 3. This resolution is effective upon adoption.

Adopted by the City Council this ____ day of _____, 2021.

CITY OF TUALATIN, OREGON

BY _____
Mayor

APPROVED AS TO FORM

ATTEST:

BY _____
City Attorney

BY _____
City Recorder

**AMENDMENT TO INTERGOVERNMENTAL AGREEMENT
BETWEEN
CLEAN WATER SERVICES AND CITY OF TUALATIN**

This Amendment, dated effective December 7, 2021 is between Clean Water Services (District) and the City of Tualatin (City), and amends the parties' Intergovernmental Agreement dated March 29, 2021 (IGA).

RECITALS

1. City and District entered into the IGA for construction of the Martinazzi Sanitary Sewer Upsizing Phase 1 (Project) to provide sufficient hydraulic capacity in the sewer system.
2. An additional line segment required upsizing due to a flatter than expected slope.
3. During Project engineering, City determined that water utilities required relocating due to conflicts with construction of the sewer upsizing.
4. A larger easement was necessary for construction due to the conflicting water utilities.
5. Project Costs need to be increased due to the additional sewer length, the cost to relocate water utilities, the easement to construct the sewer and conflicting utilities, and to provide a construction contingency.
6. City requested that District increase the not-to-exceed amount in the IGA by \$300,000.
7. The parties wish to amend the IGA to modify the Project scope and the not-to-exceed amount.

TERMS AND CONDITIONS

1. Project Description

Delete the first paragraph in Section B of the IGA and replace it with the following:

“The Project consists of replacing approximately 1,288 lineal feet of 12-inch diameter sanitary sewer line with 15-inch diameter sewer line at two locations on the Martinazzi Sanitary Sewer Trunk. The first location replaces approximately 684 linear feet of sanitary sewer located at the intersection of Martinazzi Avenue and Blake Street and crossing through residential lots to Makah Court, commencing at Clean Water Services Manhole 22121 and ending at Manhole 22125. The second location replaces approximately 604 linear feet of sanitary sewer located at the intersection of Martinazzi Avenue and Chelan Street and north to Seminole Trail commencing at Clean Water

Services Manhole 22108 and ending at Manhole 22111. Both locations require relocation of water systems including water mains, fire hydrants, valves, and residential meters. See attached Exhibit A for the Project location.”

2. **Project Location Map**

Delete Exhibit A of the IGA and replace it with the attached Exhibit A.

3. **Not-to-Exceed Amount**

The total not-to-exceed amount to be paid by the Financial Partner to the Managing Partner for the Project in Exhibit B of the IGA is increased from \$841,800 to \$1,141,800.

4. **Electronic Signature.**

This document may be executed in several counterparts, each of which will be an original, all of which will constitute one and the same instrument. An electronic signature will be considered an original. The individuals signing this document certify that they are authorized to execute this document on behalf of the City and District respectively.

5. **Effect of Amendment**

This Amendment is effective upon the date of the last signature affixed below. Except as modified by this Amendment, the original IGA remains in full force and effect.

CLEAN WATER SERVICES

CITY OF TUALATIN

By: _____
Chief Executive Officer or Designee

By: _____
City Manager or Designee

Date: _____

Date: _____

APPROVED AS TO FORM

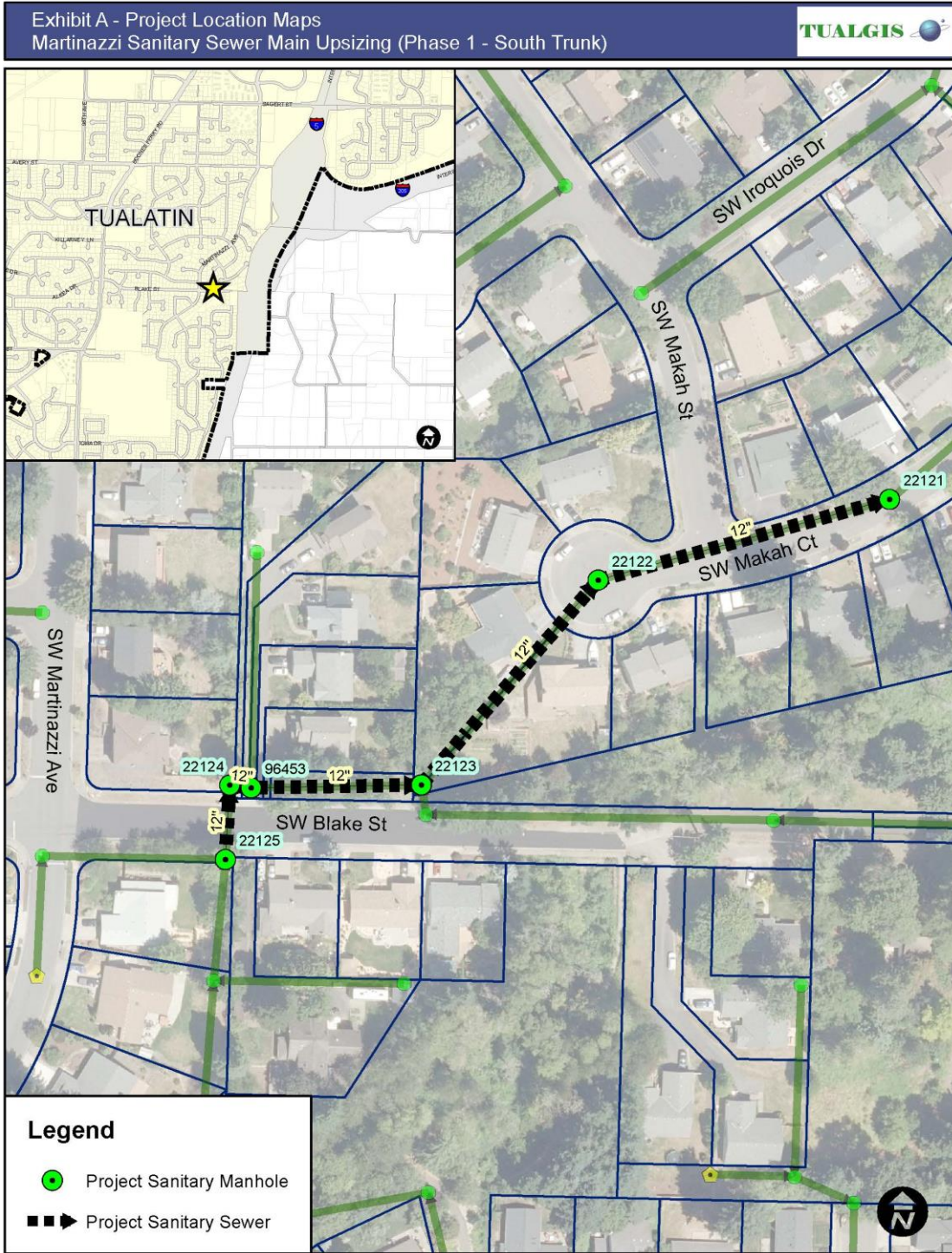
APPROVED AS TO FORM

District Counsel

City Counsel

Exhibit A

Project Location Map





City of Tualatin

**CITY OF TUALATIN
Staff Report**

TO: Honorable Mayor and Members of the City Council
THROUGH: Sherilyn Lombos, City Manager
FROM: Karen Perl Fox, Senior Housing Program Analyst
DATE: December 13, 2021

SUBJECT:

Equitable Housing Solutions Meeting (Severely Rent Burdened Public Meeting) Recap

EXECUTIVE SUMMARY:

For the past three years, Tualatin has been considered a “severely rent burdened” community of 10,000 or greater population under state law (HB 2001). This means that 25 percent of Tualatin’s renter households spend more than 50 percent of their gross income on rent. In each year Tualatin is considered a severely rent burdened community, the state law imposes certain requirements. The first of which is to hold a single public meeting to discuss the causes and consequences of severe rent burdens within the city, the barriers to reducing rent burdens and possible solutions. The second of which is for Tualatin to report the number of housing units that were permitted and produced in 2021, categorized by unit type, to the Oregon Department of Land Conservation and Development (DLCD) by February 1, 2022, Tualatin will be required to submit to the Department of Land Conservation and Development a report for calendar year 2021 summarizing the number of housing units that were permitted and produced, categorized by unit type.

This year’s public meeting was held as a Zoom meeting with simultaneous Spanish translation, which satisfied the state law requirements by presenting the recently adopted Housing Production Strategy (HPS), which identified the causes and consequences of severe rent burdens and Tualatin as well as its Goals and Strategic Actions, which identified potential to reduce severe housing rent burden. The public meeting included six local panelists who brought considerable knowledge and expertise on equitable housing and potential solutions to reduce severe rent burden. This was followed by an open comment, question and answer period with the participants. The event closed with next steps, including opportunities to stay engaged and involved and where to find additional housing resources.

There were 60 registrants for this event, exceeding the registration in each of the prior two years in which the City held a public meeting required under state law. An estimated 15 registrants were residents and another 13 registrants were from non-profit organizations who serve those struggling with housing or housing related needs. In addition, there were 3 registrants who identified as being from affordable housing development organizations and 2 registrants from culturally specific organizations. In addition, there were 9 registrants from nearby local government agencies. The remainder of registrants included the Mayor, Council representatives, Planning Commissioner, the six panelists, the Spanish interpreter and City staff.

ATTACHMENTS:

- A. Presentation
- B. Event Program and Panelist Bios



Equitable Housing Solutions

Severely Rent Burdened Event/Meeting

Recap on Virtual Event/Meeting

held November 10, 2021

6:00 PM to 7:15 PM



Special Report to Tualatin's City Council

December 13, 2021

Event Goals

- Identify causes, barriers and solutions to Severe Rent Burden for Tualatin.
- Introduce Tualatin's Newly Adopted Housing Production Strategy (HPS) and identify the intersect between severe rent burden challenges and potential solutions from the HPS
- Meet state requirements for this event/meeting

What is Severe Rent Burden?

House Bill 4006 (2018) requires cities greater than 10,000 in population, or "larger cities", to hold a public meeting to discuss the consequences/causes of severe rent burden, barriers to reducing rent burdens, and possible solutions.

"Severe rent burden" or "severely rent burdened" is the circumstance where a household spends more than 50 percent of the household income on gross rent for housing.

- A "severely rent burdened city" is a city where at least 25 percent of the renter households in the city are severely rent burdened.
- Currently, Tualatin is a severely rent burdened city with 25.3 percent of its households severely rent burdened.

Outreach

Outreach Methods

- Multiple email blasts to extensive invite list in Spanish and English
- Banner and calendar event on city website
- Tualatin Life advertising in Spanish and English
- Notices and flyers posted in Spanish and English in City Library and City offices
- Flyers delivered to Tualatin Pantry and distributed to low-income community members
- Networking

Results

- 60 people registered for the event, which topped the past two years for this event considerably
- Informative HPS presentation
- Robust Panel Discussion
- Range of comments and questions from participants received and responded to

Program/Event Features

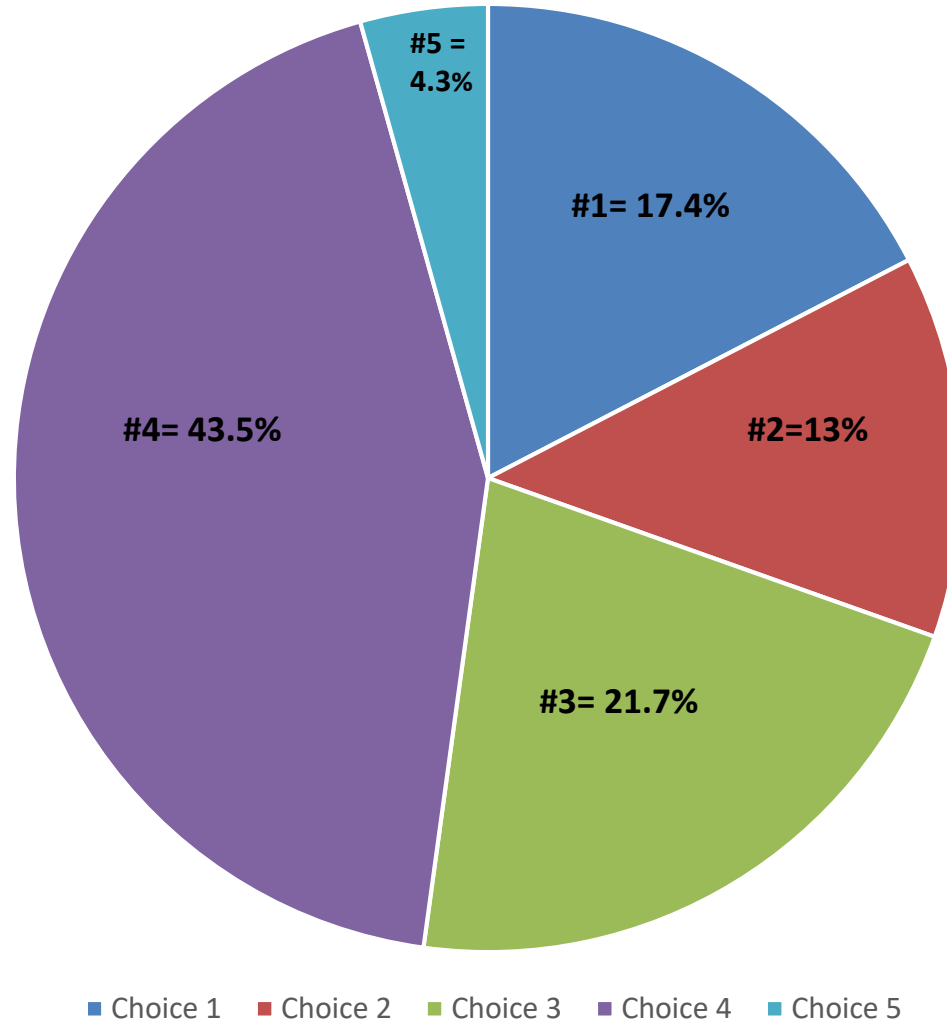
- Welcome with Intro to Equitable Housing Solutions Event/Meeting and Polling
- Presentation/Intro to Housing Production Strategy
- Moderated Panel with Six Esteemed Local Panelists with Equitable Housing Expertise
 - Looked at the Intersect between the HPS and Potential Solutions and Reducing Severe Rent Burden
- Open Q & A with Participants
- Closing: Ways to Stay Engaged and Involved in the City's Housing Production Strategy and Equitable Housing Solutions

Polling Results

What brings you to this Event/Meeting today?

Multiple Choice Responses

1. I want to learn more about reducing severe rent burden (17.4%)
2. I saw this as an opportunity to learn more about Tualatin's Housing Production Strategy (13%)
3. I am interested in being involved in helping to find equitable housing solutions for Tualatin (21.7%)
4. **All of the above** (43.5%)
5. My household is experiencing severe rent burden and I am looking for solutions for my household (4.3%)



Takeaways from Event

- **Event garnered strong positive interest** from the public, Council, housing agencies, non-profit developers, housing service providers and culturally specific organizations
- **Panelists were a wealth of knowledge on Equitable Housing Solutions**
- **Important to continue to build relationships** with housing partners, panelists, housing developers, housing service providers and others to support equitable housing and reduce severe rent burden
- **Next steps in 2022:**
 - Equitable Housing Funding Plan (under grant from State)
 - Housing Capacity (under grant from State)
 - Evaluate strategic actions in the HPS scheduled for 2022



Questions and Feedback from Council

Equitable Housing Solutions

City of Tualatin's Severely Rent Burdened Virtual Event/Meeting



November 10, 2021
6:00PM-7:15PM

Program Schedule/Agenda

- 6:00 PM **Welcome and Brief Introduction** – Moderator: Karen Perl Fox
- 6:05 PM **City Staff Housing Presentation:** Karen Perl Fox, Senior Housing Program Analyst
- Forging a Path toward 'Equitable Housing Solutions' with Tualatin's 2021 Housing Production Strategy
- 6:20 PM **Panel Discussion:** Barriers and Equitable Housing Solutions
- **Rachael Duke, Executive Director, Community Partners for Affordable Housing**
Affordable Rental Housing Development & Funding Sources and Incentives
(HPS Goal 1: Actions a.-f.)
 - **Mariana Valenzuela, Director of Community Partnerships & Advocacy, Centro Cultural** - Equitable Housing Funding Plan & Underserved Communities
(HPS Goal 5: Action 5a.)
 - **Katherine Galian, Director of Family & Community Services, Community Action and Jaime Trinkle, Attorney, Oregon Law Center**
Housing Stabilization: Rental Assistance and Eviction Prevention
(HPS Goal 7: Actions 7a.-b.)
 - **Alex Devlin, Services Network Administrator, Washington County**
Housing Support Services
(HPS Goal 7: Action 7b.)
 - **Peg Malloy, Executive Director, Portland Housing Center**
Affordable Homeownership Education and Realization
(HPS Goal 2: Actions 2a.-c.)
- 7:00 PM **Comments & Questions from Participants**
- 7:15 PM **Adjourn**

Buscando Soluciones de Vivienda Equitativa

Alojado por la Ciudad de Tualatin Evento Virtual/de Reunión Con Cargas de Alquiler Severas



El 10 de noviembre 2021
Las 6:00 p.m. a 7:15 p.m.

Horario de Programa/Agenda

- 6:00 PM **Bienvenida y breve introducción** - Moderadora: Karen Perl Fox
- 6:05 PM **Presentación de personal de Vivienda de la Ciudad**
- Forjando un camino hacia soluciones de vivienda equitativas con la estrategia de producción de vivienda 2021 de Tualatin
- 6:20 PM **Panel Discussion: Barreras y Soluciones de Vivienda Equitativa**
- **Rachael Duke, Directora Ejecutiva, Socios Comunitarios para viviendas asequibles** Desarrollo de viviendas de alquiler asequible y fuentes de financiación y incentivos (Objetivo 1 de HPS: Acciones a.-f)
 - **Maríana Valenzeula, Directora de Asociaciones Comunitari y Defensa, Centro Cultural** Plan de Financiamiento de Vivienda Equitativa y Comunidades Desatendidas (Objetivo de HPS 1: Acciones 5a)
 - **Katherine Galian, Directora de Servicios familiares y comunitarios , Acción Comunitaria y Jaime Trinkle, Abogado, Oregon Law Center**
Estabilización de la vivienda: asistencia para el alquiler y prevención de desalojos (Objetivo 7 de HPS: Acciones 7a.-b.)
 - **Alex Devlin, Administrador de Redes de Servicios, Condado de Washington** Servicios de Apoyo a la Vivienda (Objetivo 7 de HPS: Acción 7b.)
 - **Peg Malloy, Directora Ejecutiva, Centro de Viviendas de Portland** Educación y realización de viviendas asequibles (Objetivo 2 de HPS: Acciones 2a.-c.)
- 7:00 PM **Comentarios y preguntas de los participantes**
- 7:15 PM **Fín de Sesión**

Equitable Housing Solutions

City of Tualatin's 2021 Severely Rent Burdened Event

Panelists' Bios

Rachael Duke is the Executive Director at Community Partners for Affordable Housing (CPAH) since 2015 with a long history working in the affordable housing sector. Over the last several years Ms. Duke has led CPAH with a focus on adding units and increasing the kinds of services provided to CPAH residents as well as providing housing services to non-residents.

Mariana E. Valenzuela Figueroa is the Director of Community Partnerships & Advocacy at Centro Cultural of Washington County, where she has worked on civic engagement projects and community outreach since August 2018. Ms. Valenzuela is a member of the Latino Policy Council and City Councilor for the City of Forest Grove. She was born in La Serena, Chile.

Alex Devin is the Services Network Administrator for the Washington County Supportive Services. Alex has worked on the development and contracting of the Housing Case Management Services program which is working with 16 non-profit providers to house over 600 high needs households who are currently experiencing homelessness in Washington County.

Katherine Galian is the Director of Housing Stability at Community Action and has been on staff at the agency since 2002. In her role, Katherine oversees a range of program areas that, combined, help low-income families and individuals in Washington County prevent and end crisis and move toward stability and economic security.

Jamie Trinkle is a staff attorney at Oregon Law Center's Hillsboro Regional Office, where she primarily serves low-income tenants and houseless clients. OLC's Hillsboro office provides free civil legal services to low-income individuals in Washington County, as well as Clatsop, Columbia, Tillamook and Yamhill Counties.

Peg Malloy is Executive Director of Portland Housing Center (PHC) an organization she founded in 1991. PHC prepares home buyers to purchase their first homes by providing counseling, financial education classes, home buying classes, down payment grants and loans and more. Each year, PHC works with about 1,200 households and a third buy homes in the Portland metro area.



City of Tualatin

CITY OF TUALATIN Staff Report

TO: Honorable Mayor and Members of the City Council
THROUGH: Sherilyn Lombos, City Manager
FROM: Steve Koper, AICP, Assistant Community Development Director
DATE: December 13, 2021

SUBJECT:

Middle Housing Development Code Adoption (Tualatin 2040 Implementation)

RECOMMENDATION:

It is recommendation, by the Planning Commission and staff, that the Council approve the proposed amendments to the Tualatin Development Code (PTA 21-0002) and adopt Ordinance No. 1463-21.

EXECUTIVE SUMMARY:

The City Council is asked to consider the Planning Commission's recommendation that the Council approve proposed amendments to the Tualatin Development Code addressing Tualatin's compliance with state Middle Housing Code requirements (HB 2001) as well as compliance with state Accessory Dwelling Unit (ADU) requirements and other "clear and objective" code requirements for housing regulations. The proposed amendments are part of the larger effort to incorporate Tualatin 2040 objectives into the Development Code, which include providing a mix of housing types.

HB 2001 – "Missing Middle" – Legislation Background.

House Bill 2001 was passed in 2019 by the Oregon Legislature and was intended to provide Oregonians with more housing choices, especially housing choices more people can afford. The law expands the ability of property owners to build certain traditional housing types, like duplexes, in residential zones. These housing types already exist in most cities, but were outlawed for decades in many neighborhoods. These limitations contribute to increased housing costs and fewer choices.

Additionally, by June 30, 2022, cities (with population over 25,000) like Tualatin and cities in the Portland Metro region, must allow duplexes, triplexes, quadplexes, cottage clusters, and townhouses in residential areas. The State of Oregon through its Department of Land Conversation and Development (DLDC) has adopted a model code which would apply on July 1, 2022, if the local jurisdiction does not have its own HB 2001 compliant code changes adopted by that time.

Public Feedback – Concerns and Strategies

Below is a summary of issues and concerns we heard from the public, the Planning Commission and the City Council, along with strategies – both part of the code amendments and otherwise – to help mitigate any potential impacts.

- **Parking:** We heard parking scarcity as a concern from multiple parties. Although HB 2001 has limited flexibility in how the City can require parking for middle housing, the proposed code was drafted to keep on-street parking separate rather than allowing a developer to use it to satisfy their off-street parking minimums.
- **Housing infill:** We heard about the need to maintain the character of existing neighborhoods as new and different development types are introduced. Although HB 2001 limits certain "subjective" requirements for middle housing (for example, "being consistent with neighborhood character" are

not allowed), existing single-family design standards, which have been used to build the existing neighborhoods, are proposed.

- **Maintenance:** We heard concerns that particular types of housing styles might have different, and in some cases, greater maintenance needs, than other housing types. Because the City has a municipal code that regulates these types of nuisances and two dedicated code compliance professionals to help enforce these requirements, it was felt by Council that no further action was needed.
- **Environment, infrastructure and safety:** We heard concerns about how new development might adversely impact the environment, traffic, and safety. While it is true that growth will add people to our community, it is also true middle housing helps encourage redevelopment and density which help us meet our goals of preserving environmental resources, and overall reducing impacts, compared to other housing types.
- **Housing choices and certainty:** We heard from some in the community, including developer stakeholders, that there is a need to increase the variety of housing choices while also providing certainty. The proposed code amendments, consistent with state law requirements, represent a major shift towards “clear and objective” requirements and Type I (nondiscretionary) review procedures which both contributed to increased certainty which in the long run can help increase housing supply and opportunity for community members to have safe, affordable housing.

Summary of Proposed Changes

A summary of proposed code changes is included as Attachment 2. The proposed changes are largely focused on adding Townhomes, Duplexes, Triplexes, Quadplexes, and “Cottage Cluster” Developments as Permitted uses consistent with the requirements of HB 2001, subject to “Type I” review for compliance with clear and objective (nondiscretionary) design and siting standards. Additional amendments designed to comply with state Accessory Dwelling Unit (ADU) requirements and other “clear and objective” code requirements for housing regulations are included. The full proposed changes are included within Ordinance 1463-21 and are supported by the Findings and Analysis that are included as an Exhibit.

ALTERNATIVES TO THE RECOMMENDATION:

The Council may alternatively:

- Continue the discussion to a later date certain
- Approve the amendments and adopt the Ordinance with additional changes
- Deny the amendments and decline to adopt the Ordinance

ATTACHMENTS:

- Attachment 1: Presentation
- Attachment 2: Summary of Draft Proposed Middle Housing Code Changes



Middle Housing Code Amendments

City Council

December 13, 2021

Overview

- Recap of project purpose
- Project schedule
- Public Feedback
- Overview of Changes
- Next steps
- Questions, discussion and recommendation



Help achieve “*a greater diversity of housing types in Tualatin,*” which was broadly supported by stakeholders and the community in the Tualatin 2040 project.

Objectives:

- Remove code barriers to different housing types.
- Remove any subjective development code requirements for middle housing.
- Coordinate with recent rules related to housing.

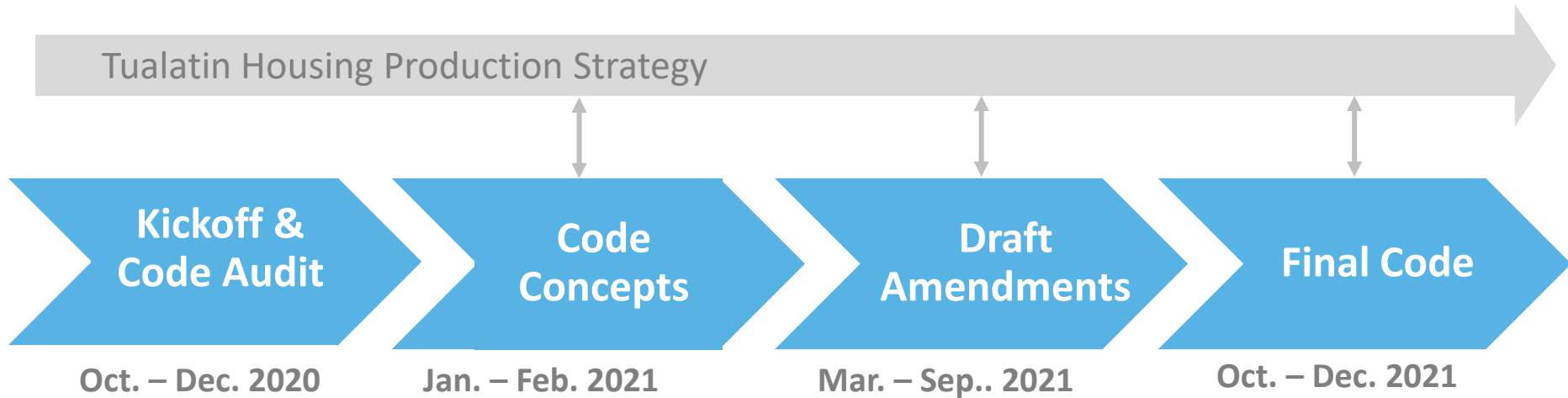
Project Purpose

Statewide Housing Rules: House Bill 2001

- Intended to expand housing options across Oregon
- “Large” Cities (25,000+): must allow “upper-level” middle housing as Permitted uses with “clear and objective” design standards
 - Townhomes
 - Duplexes
 - Triplexes
 - Quadplexes
 - “Cottage cluster” developments
- Local code requirements may not cause “unreasonable cost or delay”



Project Schedule



Public Feedback – Concerns and Strategies

- **Parking:** keep on-street parking separate from parking minimums
- **Housing infill:** character maintained through design standards
- **Maintenance:** ensured through municipal code and code enforcement program
- **Environment, infrastructure and safety:** middle housing helps encourage redevelopment and density which help us meet our goals
- **Housing choices and certainty:** clear requirements help certainty increasing supply and opportunity

Summary of Code Update – 1 of 3

TDC Chapter	Title	Draft Proposed Code
31	General Provisions Definitions	Revises and adds definitions to clarify housing types and standards including housing type descriptions and standards like Floor Area Ratio (FAR).
32	Procedures	Revises to Type I review for middle housing types. Type I reviews respond to predictable and objective written code standards evaluated by staff.
33	Applications and Approval Criteria	Revises the application of the Type I Architectural Review process that applies to single-family dwellings to additional middle housing types. Clarifies processes that are applicable when property owners update, remodel, or add an addition to a home, or request a variance to a standard.
34	Special Regulations	Minor updates to Home Occupation Provisions. Moves Accessory Dwelling Unit (ADU) standards with other design standards in Chapter 73A.
36	Subdividing, Partitions, and Property Line Adjustments	Describes how subdivision standards are applied to meet clear and objective requirements for all housing, including for middle housing types based on development standards in other chapters.

Summary of Code Update – 2 of 3

TDC Chapter	Title	Draft Proposed Code
39	Use Categories	Clarifies household living use as encompassing a range of development types.
40	Low Density Residential Zone (RL)	<ul style="list-style-type: none">• Adds Townhomes, Duplexes, Triplexes, and Quadplexes as “Permitted” uses subject to review.• Adds Cottage Cluster housing type, subject to review;• Updates development standards such as minimum lot size and coverage standards for middle housing types;• Introduction of Floor Area Ratio (FAR) to effectively require smaller structures on smaller lots.• Clarifies flexible lot subdivision provisions.
41	Medium Low Density Residential Zone (RML)	<ul style="list-style-type: none">• Adds Cottage Cluster housing type;• Updates development standards such as minimum lot size and coverage standards for middle housing types;• Introduction of Floor Area Ratio (FAR) to effectively require smaller structures on smaller lots.• Clarifies flexible lot subdivision provisions.

Summary of Code Update – 3 of 3

TDC Chapter	Title	Draft Proposed Code
58	Central Tualatin Overlay Zone	Adds middle housing types in situations where detached single family dwellings allowed consistent with state law.
73A	Site Design Standards	<ul style="list-style-type: none">• Applies existing design standards that currently apply to single-family homes to additional middle housing types;• Adds section for applicable design standards for cottage cluster.• Adds design standards for accessory dwelling units (ADUs), moved from Chapter 35, updates parking and siting standards for consistency with current state law, clear and objective requirements, and to coordinate with other code changes that allow for new units on a site.• Updates multi-family design standards to remove subjective requirements, consistent with state law.
73B	Landscaping Standards	Clarifies applicable standards for middle housing.
73C	Parking Standards	Updates parking ratios to be consistent with middle housing legislation.
75	Access Management	Updates driveway width and spacing standards.

Public Outreach

Draft Code Development

- 2 Council Work Sessions and 4 Planning Commission public meetings
- Webinar held in February 2021
- Public Survey held in May 2021

Final Code Amendments

- Published and public notice procedures followed from code
- Public meeting at Planning Commission open to public testimony (October 21st)
- Final Code Amendments and Adoption by City Council at hearing open to the public (December 13th)





Recommendation

- The Planning Commission has recommended that the Council approve the proposed amendments (PTA 20-0002) and adopt Ordinance No. 1463-21

Summary of Draft Proposed Middle Housing Code Changes

TDC Chapter	Title	Draft Proposed Code
31	General Provisions <i>Definitions</i>	Revises and adds definitions to clarify housing types and standards including housing type descriptions and standards like Floor Area Ratio (FAR).
32	Procedures	Revises to Type I review for middle housing types. Type I reviews respond to predictable and objective written code standards evaluated by staff.
33	Applications and Approval Criteria	Revises the application of the Type I Architectural Review process that applies to single-family dwellings to additional middle housing types. Clarifies processes that are applicable when property owners update, remodel, or add an addition to a home, or request a variance to a standard.
34	Special Regulations	Minor updates to Home Occupation Provisions. Moves Accessory Dwelling Unit (ADU) standards with other design standards in Chapter 73A.
36	Subdividing, Partitions, and Property Line Adjustments	Describes how subdivision standards are applied to meet clear and objective requirements for all housing, including for middle housing types based on development standards in other chapters.
39	Use Categories	Clarifies household living use as encompassing a range of development types.
40	Low Density Residential Zone (RL)	<ul style="list-style-type: none"> • Adds Townhomes, Duplexes, Triplexes, and Quadplexes as “Permitted” uses subject to review. • Adds Cottage Cluster housing type, subject to review; • Updates development standards such as minimum lot size and coverage standards for middle housing types; • Introduction of Floor Area Ratio (FAR) to effectively require smaller structures on smaller lots. • Clarifies subdivision provisions.
41	Medium Low Density Residential Zone (RML)	<ul style="list-style-type: none"> • Adds Cottage Cluster housing type; • Updates development standards such as minimum lot size and coverage standards for middle housing types;

TDC Chapter	Title	Draft Proposed Code
		<ul style="list-style-type: none"> • Introduction of Floor Area Ratio (FAR) to effectively require smaller structures on smaller lots. • Clarifies subdivision provisions.
58	Central Tualatin Overlay Zone	Adds middle housing types in situations where detached single family dwellings allowed consistent with state law.
73A	Site Design Standards	<ul style="list-style-type: none"> • Applies existing criteria such as minimum window coverage and the requirement for “architectural features” that currently apply to single-family homes to additional middle housing types; • Adds section for applicable design standards for cottage cluster housing focused on common courtyard and unit standards. • Adds design standards for accessory dwelling units (ADUs), moved from Chapter 35, updates parking and siting standards for consistency with current state law, clear and objective requirements, and to coordinate with other code changes that allow for new units on a site. • Updates multi-family design standards to remove subjective requirements, consistent with state law.
73B	Landscaping Standards	Clarifies applicable standards for middle housing separate from larger multi-family developments.
73C	Parking Standards	Updates parking ratios to be consistent with middle housing legislation.
75	Access Management	Updates driveway width and spacing standards to reflect unique situations that can be presented with townhomes and attached dwellings.

ORDINANCE NO. 1463-21

AN ORDINANCE RELATING TO LAND USE AND MIDDLE HOUSING; AMENDING AND CREATING NEW PROVISIONS IN TUALATIN DEVELOPMENT CODE CHAPTERS 31, 32, 33, 34, 36, 39, 40, 41, 58, 73A, 73B, 73C, and 75.

WHEREAS, the Tualatin Development Code (TDC) establishes the land uses and development requirements in the City;

WHEREAS, the City initiated Plan Text Amendment (PTA) 21-0002 to update the TDC to comply with updates to State law related to middle housing;

WHEREAS, the City provided notice of PTA 21-0002 to the Oregon Department of Land Conservation and Development, as provided in ORS 197.610;

WHEREAS, the City provided notice of the public hearing for PTA 21-0002, as required by TDC 1.031;

WHEREAS, at the public hearing, the Council heard and considered the testimony and evidence presented by City staff, and those appearing at the public hearing, and approved PTA 21-0002; and

WHEREAS, the Council finds the changes provided by this Ordinance are necessary and in the public interest to streamline processes, clarify development standards, and make changes to comply with State law requirements.

THE CITY OF TUALATIN ORDAINS AS FOLLOWS:

Section 1. TDC 31.060 (Definitions) is amended by modifying and adding the following definitions, as set forth below. All other definitions remain unchanged.

Common courtyard. An outdoor common area for shared use by residents of a Cottage Cluster.

Cottage. An individual dwelling unit with a building footprint, measured outside of all exterior walls and supporting columns, of not more than 899 square feet in size that is part of and subject to the requirements of a Cottage Cluster. The building footprint does not include: detached garages or carports; accessory structures; trellises; patios; areas of porch, deck, balcony less than 30 inches from finished grade; cantilevered covers, porches, or projections; ramps or stairways required for access.

Cottage Cluster. See Residential Structure Types.

Density Transfer Project. A residential development in a Medium Low Density Residential (RML) zone Planning District consisting of an area of single family development that wherein the single family development contains detached and

~~attached (zero lot line) single family dwellings on lots each on a separate lot approved through a Subdivision or Partition application, where or consisting of both an area of single family development and an area of multi-family development in an identified project area wherein (1) the single family development consists of detached and attached (zero lot line) single family dwellings each on a separate lot approved through a Subdivision or Partition application, (2) the multi-family development consists of multi-family dwellings on a lot or lots approved through a Subdivision or Partition application and (3) an amount of unused density from the area of single family dwellings on individual lots may be transferred to and used in the area of toward multi-family dwellings.~~

Driveway approach. The intersection of an access providing direct vehicle ingress and egress to property and the public right-of-way. Driveway approach includes the concrete or asphalt ramp and public sidewalk located within the public right-of-way between the street travel surface and the property line.

Floor Area Ratio. The ratio of the total amount of enclosed gross floor area within a structure to the amount of buildable acreage. For purposes of calculation, both gross floor area and net site area shall be converted to square feet. Total gross floor area is measured from the exterior faces of a building or structure, and does not include basement or semi-subterranean areas used for storage or parking.

Frontage. Means Lot Line, Front. See, Lot Line, Front definition. See Lot Line, Front. -

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

Lot. A unit of land that is created by a subdivision of land as set forth in ORS 92.010—92.190. Lot and parcel are used interchangeably in the Tualatin Development Code to refer to a legally established unit of land. See also *Parcel* or *Lot of Record*.

Lot Line. The property line bounding a lot. (Also known as a property line).

~~*Front Lot Line.* The lot line separating the lot from the street other than an alley. A lot line that abuts a street. If two or more lot lines abut a street, the shortest of the lot lines is the front lot line; if two or more lot lines of equal length abut a street, the front line is the lot line that abuts the street of the lower functional classification; and if two or more lot lines are of equal length and abut streets of the same functional classification, any of the lot lines that abut a street can be designated the front lot line.~~

Rear Lot Line. A lot line which is opposite and most distant from the front lot line, and in the case of an irregular, triangular, or other-shaped lot, the rear lot line is the

lot line or lines most distant from the front lot line. For triangular-shaped lots, the rear lot line is a line ten feet in length within the lot, perpendicular to the side lots, and that is parallel to and at a maximum distance from the front lot line.

Side Lot Line. Any lot line that is not a front line or rear lot line.

Lot of Record. A lot of record is a plot of land: (1) which was not created through an approved subdivision or partition; (2) which was created and recorded before July 26, 1979; and (3) for which the deed, or other instrument dividing the land, is recorded with the appropriate county recorder. See also Lot or Parcel.

Lot Types:

Corner Lot. A lot abutting two intersecting streets other than an alley.

Double Frontage Lot. A lot having public right-of-way frontage on two sides, but is not a corner lot; or a lot having frontage on three sides.

Flag Lot. A lot the major portion of which has access to a public street by means of a narrow strip of the lot. Flag Lot. For newly created flag lots, the property owner can designate which lot line is to be the front lot line, so long as the front lot line is one of the lot lines that make up the flag portion of the lot and the rear lot line is the property line most distant from, and opposite, the designated front lot line.

Primary Condominium Lot. A large lot, usually held in common ownership by condominium owners, and containing secondary condominium lots.

Reserve Frontage Lot. A lot which is required by the City to take access across a specified lot line to separate residential development from railroad tracks or crossings, arterial or collector streets, adjacent non-residential uses, or to overcome specific disadvantages of topography and orientation.

Secondary Condominium Lot. A small, individually owned lot, usually encompassing the perimeter of a dwelling unit and located inside the primary condominium lot.

Through Lot. A lot that fronts upon two parallel streets or that fronts upon two streets that do not intersect at the boundaries of the lots.

Parcel. A unit of land that is created by a partitioning of land, as set forth in ORS 92.010. See, also Lot.

Residential Structure Types and Related (includes but is not limited to definitions for Housing Types in Section 39.200 and Group Living in Section 39.210).

Accessory Dwelling Unit (ADU). An interior attached or detached residential structure that is accessory to a single family dwelling. An Accessory Dwelling Unit is not a ~~separate~~ dwelling unit for density purposes.

Cottage Cluster. A grouping of no fewer than four cottages per acre that includes a common courtyard, subject to the provisions of Chapter 73A.

~~*Duplex.* A type of dwelling that contains two primary dwelling units on one lot in any configuration. The units must share a common wall or common floor/ceiling.~~

Dwelling Unit. A habitable structure designed for occupancy and only having one cooking facility.

~~*Multi-Family Structure.* A structure containing three five or more dwelling units on one lot. The land underneath the structure is not divided into separate lots. Multi-Family Structure includes, but is not limited to structures commonly called apartments, condominiums, and garden apartments, ~~and triplex.~~~~

Garden Apartments. A multi-family housing structure characterized by the emphasis of open landscaped areas.

~~*Triplex.* A multi-family structure containing three primary dwelling units. Each unit must share a common wall or common floor/ceiling with at least one other unit.~~

Quadplex. Four dwelling units on a lot or parcel in any configuration.

Residential Home. A residential training home or residential treatment home for five or fewer individuals exclusive of staff, as defined in ORS 443.400.

Retirement Housing Facility. Retirement housing consisting of dwelling units in a multi-family structure or complex.

Retirement Housing. Housing occupied by persons who are 55 years of age and older, including couples with one person 55 years of age or older, where a more supportive living environment than typically afforded to residents in conventional apartments or single-family residential housing is provided. Retirement housing includes "congregate care facility" and "retirement housing facility," or combinations thereof as defined by this Code. Retirement housing does not include "nursing facility" as defined below by this code.

~~*Single-Family Dwelling (detached).* A single dwelling unit detached or separate from other dwelling units. A dwelling unit not having common walls with another dwelling unit. A detached structure on a lot or parcel that is comprised of a single dwelling unit.~~

Townhouse (or Rowhouse). A type of dwelling unit, located on its own lot, and which shares one or more common or abutting walls with one or more other dwelling units. A dwelling unit constructed in a row of two or more attached units, where each dwelling unit is located on an individual lot or parcel and shares at least one common wall with an adjacent unit.

Triplex. Three dwelling units on a lot or parcel in any configuration.

Triplex. See Residential Structure Types; Multi-Family Structure.

Wall Plane. A wall plane means all vertical surfaces on one side of a structure from the base of the main floor level up, including walls, garage doors, entries, gable ends, dormers, and other architectural features, but excluding any roof areas.

Section 2. TDC 32.010 (Purpose and Applicability), Table 32-1 are amended to read as follows:

TDC 32.010. Purpose and Applicability.

(1) *Purpose*. The purpose of this Chapter is to establish standard procedures for the review and processing of land use applications and legislative land use proposals, as well as ministerial actions. This Chapter is intended to enable the City, the applicant, and the public, where applicable, to reasonably review applications and participate in the local decision-making process in a timely and effective way. Table 32-1 provides a key for determining the review procedure and the decision-making body for particular applications.

(2) *Applicability of Review Procedures*. All land use and development permit applications and decisions, will be made by using the procedures contained in this Chapter. The procedure "type" assigned to each application governs the decision-making process for that permit or application. There are five types of permit/application procedures as described in subsections (a) through (e) below. Table 32-1 lists the City's land use and development applications and corresponding review procedure(s).

(a) *Type I Procedure (Ministerial Staff Review)*. A Type I procedure is used in applying City standards and criteria that do not require the use of discretion, interpretation, or the exercise of policy or legal judgment (i.e., clear and objective standards). Type I decisions are made by the City Manager without public notice and without a public hearing. Appeals of Type I decisions are to Circuit Court under writ of review.

(b) *Type II Procedure (Administrative/Staff Review with Notice)*. A Type II procedure is used when the standards and criteria require limited discretion, interpretation, or policy or legal judgment. Type II decisions are made by the City Manager and require public notice and an opportunity for appeal to the Planning Commission, Architectural Review Board, or City Council as shown in Table 32-

1. Those Type II decisions which are "limited land use decisions" as defined in ORS 197.015 are so noted in Table 32-1.

(c) *Type III Procedure (Quasi-Judicial Review—Public Hearing)*. Type III procedure is used when the standards and criteria require discretion, interpretation, or policy or legal judgment. Quasi-Judicial decisions involve discretion but implement established policy. Type III decisions are made by the Planning Commission or Architectural Review Board and require public notice and a public hearing, with an opportunity for appeal to the City Council.

(d) *Type IV-A Procedure (Quasi-Judicial Review—City Council Public Hearing)*. Type IV-A procedure is used when the standards and criteria require discretion, interpretation, or policy or legal judgment and is the procedure used for site-specific land use actions initiated by an applicant. Type IV-A decisions are made by the City Council and require public notice and a public hearing. Appeals of Type IV-A decisions are heard by the Land Use Board of Appeals (LUBA).

(e) *Type IV-B Procedure (Legislative Review)*. The Type IV-B procedure is used to review proposals to amend the Tualatin Comprehensive Plan, the City's land use regulations, and large-scale changes to the Comprehensive Plan or Plan Maps, and involve the creation, revision, or implementation of broad public policy. Type IV-B reviews are first considered by the Planning Commission, which makes a recommendation to City Council. City Council makes the final decision on a legislative proposal through the enactment of an ordinance. Appeals of Type IV-B decisions are heard by the Land Use Board of Appeals (LUBA).

(3) *Determination of Review Type*. Unless specified in Table 32-1, the City Manager will determine whether a permit or application is processed as Type I, II, III, IV-A or IV-B based on the descriptions above. Questions regarding the appropriate procedure will be resolved in favor of the review type providing the widest notice and opportunity to participate. An applicant may choose to elevate a Type I or II application to a higher numbered review type, provided the applicant pays the appropriate fee for the selected review type.

Table 32-1—Applications Types and Review Procedures

Application/Action	Procedure Type	Decision Body*	Appeal Body*	Pre-Application Conference Required	Neighborhood/Developer Mtg Required	Applicable Code Chapter
Annexations						
• Quasi-judicial	TDC 32.260	CC	LUBA	Yes	Yes	TDC 33.010

• Legislative		CC	LUBA	No	No	TDC 33.010
Architectural Review						
• Architectural Review (except as specified below) (limited land use)	II	CM	ARB/CC	Yes	Yes	TDC 33.020
• Single Family Dwelling, <u>Duplexes</u> , <u>Townhouses</u> , <u>Triplexes</u> , <u>Quadplexes</u> , and <u>Cottage Clusters</u> following Clear and Objective Standards • Accessory Dwelling Units (ADUs) following Clear and Objective Standards • Minor AR including façade and landscape modifications	I	CM	Circuit Court	No	No	TDC 33.020
• Commercial Buildings 50,000 square feet and larger • Industrial Buildings 150,000 square feet and larger • Multifamily Housing Projects 100 units and above (or any number of units)	III	ARB	CC	Yes	Yes	TDC 33.020

abutting a single family district) •as requested by the CM						
Public Facilities Decision in conjunction with Architectural Review (limited land use)	II	CM	CC	Yes	Yes	TDC 33.020
Driveway Approach and Closure Permits (limited land use)	II	CM	CC	No	No	TDC 33.030
Conditional Use Permit	III	PC	CC	Yes	Yes	TDC 33.040
Floodplain Development	I	CM	Circuit Court	No	No	TDC Ch 70
Floodplain Variance	IV-A	CC	LUBA	Yes	Yes	TDC Ch 70
Historic Landmark Actions						
• Applying or removing designation—Quasi-judicial	IV-A	CC	LUBA	Yes	Yes	TDC Ch 68
• Applying or removing designation—Legislative	IV-B	CC	LUBA	No	No	TDC Ch 68
• Demolition, relocation, alteration, new construction (limited land use) of a Landmark	II	CM	CC	Yes	Yes	TDC Ch 68
National Register Resources actions: demolition or relocation	IV-A	CC	LUBA	Yes	Yes	TDC Ch 68

Industrial Master Plans	III	PC	CC	Yes	Yes	TDC 33.050
Land Divisions						
• Property line adjustment (PLA)	I	CM	Circuit Court	No	No	TDC Ch 36
• Subdivisions (limited land use)	II	CM	CC	Yes	Yes	TDC Ch 36
• Partitions (limited land use)	II	CM	CC	Yes	Yes	TDC Ch 36
• Minor (immaterial) modifications to approved plan (prior to plat approval)	I	CM	Circuit Court	No	No	TDC Ch 36
• Expedited Land Divisions	Subject to procedures in ORS 197.365					TDC Ch 36
Nonconforming use— Reinstatement of a nonconforming use	III	PC	CC	No	No	TDC 33.060
Plan Amendments						
• Map or Text Amendments for a specific property	IV-A	CC	LUBA	Yes	Yes	TDC 33.070
• Legislative Map or Text Amendments	IV-B	CC	LUBA	No	No	TDC 33.070
Signs						
• Sign Permit, New or Alteration, including Sign Design Review	I	CM	Circuit Court	No	No	TDC 33.080
• Sign Variance	III	PC	CC	Yes	Yes	TDC 33.080
Temporary Outdoor Sales Permit	I	CM	Circuit Court	No	No	TDC 33.090

Temporary Sales Office	I	CM	Circuit Court	No	No	TDC 33.100
Tree Removal Permit	II	CM	CC	Yes	Yes	TDC 33.110
Variance						
• Variance (including Sign Variance) except as specified below	III	PC	CC	Yes	Yes	TDC 33.120
• Variance for existing single family residence	III	PC	CC	Yes	No	TDC 33.120
• Variance in conjunction with a subdivision or partition (except minor variances)	IV-A	CC	LUBA	Yes	Yes	TDC Ch 36
• Minor variance except as specified below	II	CM	CC	Yes	Yes	TDC 33.120
• Minor variance in conjunction with a property line adjustment, subdivision or partition	II	CM	CC	Yes	Yes	TDC Ch 36
• Minor variance for existing single family residence <u>permitted housing types in the RL and RML zones.</u>	II	CM	CC	Yes	No	TDC 33.120
Wetlands Protection District	I	CM	Circuit Court	No	No	TDC Ch 71

* City Council (CC); Planning Commission (PC); Architectural Review Board (ARB); City Manager or designee (CM); Land Use Board of Appeals (LUBA).

Section 3. TDC 33.020 (Architectural Review) is amended as follows:

TDC 33.020. Architectural Review.

(1) *Purpose.* The City Council finds that excessive uniformity, dissimilarity, inappropriateness, or poor quality of design in the exterior appearance of structures and the lack of proper attention to site development and landscaping, in the business, commercial, industrial, and certain residential areas of the City hinders the harmonious development of the City; impairs the desirability of residence, investment or occupation in the City; limits the opportunity to attain the optimum use and value of land and improvements; adversely affects the stability and value of property; produces degeneration of property in such areas with attendant deterioration of conditions affecting the peace, health and welfare of the City; and destroys a proper relationship between the taxable value of property and the cost of municipal services therefore. The purposes and objectives of community design standards are to:

- (a) Encourage originality, flexibility and innovation in site planning and development, including the architecture, landscaping and graphic design of development.
- (b) Discourage monotonous, drab, unsightly, dreary and inharmonious development.
- (c) Promote the City's natural beauty and visual character and charm by ensuring that structures and other improvements are properly related to their sites, and to surrounding sites and structures, with due regard to the aesthetic qualities of the natural terrain, natural environment, and landscaping. Exterior appearances of structures and other improvements should enhance these qualities.
- (d) Encourage site planning and development to incorporate bikeways, pedestrian facilities, greenways, wetlands, and other natural features of the environment and provide incentives for dedication of access easements and property to the public through shift of residential density, system development charge credits, landscaping credits and setback allowances.
- (e) Protect and enhance the City's appeal to tourists and visitors and thus support and stimulate business and industry and promote the desirability of investment and occupancy in business, commercial and industrial properties.
- (f) Stabilize and improve property values and prevent blighted areas and thus increase tax revenues.
- (g) Achieve the beneficial influence of pleasant environments for living and working on behavioral patterns and thus decrease the cost of governmental services.
- (h) Foster civic pride and community spirit so as to improve the quality and quantity of citizen participation in local government and in community growth, change and improvement.

(i) Sustain the comfort, health, safety, tranquility and contentment of residents and attract new residents by reason of the City's favorable environment and thus promote and protect the peace, health and welfare of the City.

(j) Determine the appropriate yard setbacks, building heights, minimum lot sizes when authorized to do so by City ordinance; and

(k) Ensure all public facilities including right-of-way, water, sewer, and storm systems are adequate to serve the development.

(2) *Applicability.*

(a) The following types of development are subject to Architectural Review:

(i) Any exterior modifications to improved or unimproved real property;

(ii) Any remodeling that changes the exterior appearance of a building;

(iii) Any site alteration which alters the topography, appearance or function of the site; and

(iv) Any change in occupancy from single family use to commercial or industrial use.

(b) Examples of development subject to Architectural Review, include but are not limited to the following:

(i) New buildings, condominiums, townhouse, single family dwellings, or manufactured dwelling park;

(ii) Construction, installation, or alteration of a building or other structure;

(iii) Landscape improvements;

(iv) New, improved, or expanded parking lots;

(v) New, or alterations to, above ground public utility facilities, pump stations, pressure reading stations, water reservoirs, electrical substations, and natural gas pumping stations;

(vi) New wireless communication facilities, and new attached wireless communication;

(vii) Installation of decorative lighting; and

(viii) Exterior painting, awnings, or murals.

(c) Exceptions to Architectural Review. The following applications for development do not require Architectural Review:

(i) The addition or alteration of an existing single-family dwelling, duplex, townhouse, triplex, quadplex, or cottage cluster if it involves:

(A) Less than 35% of the structure's existing footprint;

(B) An increase in building height of less than 35% ~~No new story~~;

(C) Less than 35% of an existing front or rear wall plane; or

(D) A side wall plane that abuts the side yard of an adjacent dwelling.

(ii) The modification by the City of greenways, parks, other Parks and Recreation Department improvements, and right-of-way landscaping improvements.

(3) *Types of Architectural Review Applications—Procedure Type.*

(a) *Single Family Dwelling and Duplex, Clear and Objective.* Development applications submitted for a single family dwelling or duplex in compliance with the Clear and Objective Standards in TDC 73A.110 through 73A.130 are subject to Type I review.

(b) *Townhouse, Clear and Objective.* Development applications submitted for a townhouse in compliance with the Clear and Objective Standards in TDC 73A.210 are subject to Type I review.

(c) *Triplex and Quadplex, Clear and Objective.* Development applications submitted for a triplex or quadplex in compliance with the Clear and Objective Standards in TDC 73A.310 are subject to Type I review.

(d) *Cottage Cluster, Clear and Objective.* Development applications submitted for a cottage cluster in compliance with the Clear and Objective Standards in TDC 73A.410 are subject to Type I review.

~~(b)~~ (e) *Accessory Dwelling Unit.* Development applications submitted for an accessory dwelling unit in compliance with the Clear and Objective Standards in TDC ~~34.600~~ 73A.170 (Accessory Dwelling Units Standards) are subject to Type I review.

~~(e)~~(f) *General Development*. All development applications, (except Single Family Dwelling, duplex, townhouse, triplex, quadplex, or cottage cluster, Clear and Objective and Large Commercial, Industrial, and Multifamily Development) are subject to Type II Review.

~~(d)~~(g) *Large Commercial, Industrial, and Multifamily Development*. Development applications that propose any of the following are subject to Type III Review by the Architectural Review Board as the hearing body:

- (i) New Commercial Buildings 50,000 square feet and larger;
- (ii) New Industrial Buildings 150,000 square feet and larger; and
- (iii) New Multifamily Housing Projects with 100 units or more units (or any number of units abutting a single family district).

~~(e)~~(h) *Minor Architectural Review*. An application for a Minor Architectural Review must be approved, approved with conditions, or denied following review based on finding that:

- (i) The proposed development is in compliance with all applicable standards and objectives in TDC Chapter 73A through 73G;
- (ii) The proposed development is in compliance with all conditions of approval on the original decision; and
- (iii) The modification is listed in 33.020(7)(a).

(4) *Application Materials*. The application must be on forms provided by the City. In addition to the application materials required by TDC 32.140 (Application Submittal), the following application materials are also required:

- (a) The project name and the names, addresses, and telephone numbers of the architect, landscape architect, and engineer on the project;
- (b) Existing conditions plan, site plan, grading plan, utility plan, landscape plan, and lighting plan all drawn to scale;
- (c) A building materials board plan that includes a written description and image representation of example building facade, windows, trim, and roofing materials, colors, and textures;
- (d) Title report; and
- (e) A Service Provider Letter from Clean Water Services.

(5) *Approval Criteria.*

(a) *Clear and Objective approval Criteria.*

(i) *Single Family Dwelling or Duplex Clear and Objective.* Applications for Single Family Dwelling or Duplex, Clear and Objective, must comply with the standards in TDC 73A.110 through 73A.130.

(ii) *Townhouse.* Applications for a Townhouse, Clear and Objective, must comply with the standards in TDC 73A.110 through 73A.130.

(iii) *Triplex and Quadplex.* Applications for a Triplex or Quadplex, Clear and Objective, must comply with the standards in TDC 73A.110 through 73A.130.

(iv) *Cottage Cluster.* Applications for a Cottage Cluster, Clear and Objective, must comply with the standards in TDC 73A.150.

(b) *Discretionary approval criteria:*

(i) *Applications for Single Family Dwellings or Duplexes (not clear and objective),* must comply with TDC 73A.140.

(ii) *Applications for Townhouses (not clear and objective),* must comply with TDC 73A.140.

(iii) *Applications for Triplexes or Quadplexes (not clear and objective),* must comply with TDC 73A.140.

(iv) *Applications for Cottage Clusters (not clear and objective)* must comply with TDC 73A.160.

~~(b)-(c)~~ *General Development.*

~~(i)~~—Applications for General Single Family Dwellings (not clear and objective), must comply with TDC 73A.140.

~~(ii)~~—Applications for General Development must comply with the applicable standards and objectives in TDC Chapter 73A through 73G.

~~(e)-(d)~~ *Large Commercial, Industrial, and Multifamily Development.* Applications for Large Commercial, Industrial, and Multifamily Development must comply with the applicable standards and objectives in TDC Chapter 73A through 73G.

(6) *Conditions of Approval.*

(a) Architectural Review decisions may include conditions of approval that apply restrictions and conditions that:

(i) ~~Protect the public from the potentially deleterious effects of the proposal;~~ Implement identified public facilities and services needed to serve the proposed development;

(ii) ~~Fulfill the need for~~ Implement identified public facilities and services created by the proposal, or needed to be altered or increased or in part attributable to the proposal attributable to the impacts of the proposed development ; and

(iii) ~~Further the implementation~~ Implement of the requirements of the Tualatin Development Code.

(b) Types of conditions of approval that may be imposed include, but are not limited to:

(i) *Development Schedule.* A reasonable time schedule placed on construction activities associated with the proposed development, or portion of the development.

(ii) *Dedications, Reservation.* Dedication or reservation of land, or the granting of an easement for park, open space, rights-of-way, bicycle or pedestrian paths, Greenway, Natural Area, Other Natural Area, riverbank, the conveyance of title or easements to the City or a non-profit conservation organization, or a homeowners' association.

(iii) *Construction and Maintenance Guarantees.* Security from the property owners in such an amount that will assure compliance with approval granted.

(iv) *Plan Modifications.* Changes in the design or intensity of the proposed development, or in proposed construction methods or practices, necessary to assure compliance with this Chapter.

(v) *Other Approvals.* Evaluation, inspections or approval by other agencies, jurisdictions, public utilities, or consultants, may be required for all or any part of the proposed development.

(vi) *Access Limitation.* The number, location and design of street accesses to a proposed development may be limited or specified where necessary to maintain the capacity of streets to carry traffic safely, provided that sufficient access to the development is maintained.

(7) *Modifications to Previously Approved Final Architectural Review Decisions.* An applicant who wishes to modify a previously approved final Architectural Review decision may utilize one of the following procedures:

(a) *Minor Architectural Review (MAR).* Minor Architectural Review is a Type I process. Minor Architectural Review is used to process a proposal for one of the following:

(i) Adding awnings, modifying previously approved exterior paint colors, or murals;

(ii) Relocating windows or doors;

(iii) Changing exterior material;

(iv) Expanding the gross floor area of a development, including primary and accessory buildings, may be expanded by no more than 200 square feet maximum;

(v) Adding or replacing new antennas on an existing Wireless Facility or Attached Wireless Facility or adding equipment within the existing equipment footprint of an existing Wireless Facility equipment space, so long as the modification does not constitute a substantial change. For the purpose of this subsection, "substantial change" means the following:

(A) The mounting of the proposed antenna on the tower would increase the existing height of the tower by more than ten percent, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this subsection by up to an additional five percent if necessary to avoid interference with existing antennas; or

(B) The mounting of the proposed antenna would involve the installation of more than the standard number of new equipment cabinets for the technology involved (not to exceed four) or more than one new equipment shelter; or

(C) The mounting of the proposed antenna would involve adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than 20 feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this subsection to the extent

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

(D) The mounting of the proposed antenna would involve excavation outside the current tower site, defined as the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site. Increases to height allowed by this subsection above the existing tower is based on the existing height of the tower, excluding any tower lighting required in the original land use approval or in the proposed modification request. To the extent feasible, additional equipment must maintain the appearance intended by the original facility, including, but not limited to, color, screening, landscaping, mounting configuration, or architectural treatment.

(vi) Replacing an existing Wireless Facility tower, provided the replacement tower must not exceed the height of the original tower by more than ten percent, or the diameter of the original tower by more than 25 percent at any given point;

(vii) Changing structure setback or lot coverage by less than ten percent from the most recently approved Architectural Review approved through a Type II or Type III process;

(viii) Changing access location or parking lots that does not result in an increase of Average Daily trips by more than 100 trips from the Average Daily Trips in an Architectural Review most recently approved through a Type II or Type III process; or

(ix) Removing trees originally required to be retained or planted by a previously approved Architectural Review proposal.

(b) *Full Architectural Review.* Modifications to a previously approved final Architectural Review decision that does not qualify as a Minor Architectural Review (MAR) may only be modified by proceeding through the regular Architectural Review process.

(8) *Effective Date.* The effective date of an Architectural Review decision or Minor Architectural Review decision is the date the notice of decision is mailed.

(9) *Permit Expiration.* Architectural Review decisions (including Minor Architectural Review decisions) expire two years from the effective date unless the applicant has received a building, or grading permit submitted in conjunction with a building permit application, substantial construction has occurred pursuant to the building permit, and an inspection has been performed by a member of the Building Division.

(10) *Extension of Permit Expiration.*

- (a) An Architectural Review approval may be extended if the applicant, or successor interest, submits a written request for an extension of time within two years of the effective date.
- (b) A Minor Architectural Review approval may not be extended. A new application is required if the permit expires.
- (c) Upon receipt of a request for an extension of time, the City will process the extension request as follows:
 - (i) If the City Manager approved the Architectural Review, then the City Manager will decide the extension request under the Type II procedures in TDC 32.220.
 - (ii) If the Architectural Review Board (ARB) approved the Architectural Review, then the ARB will decide the extension request under the Type III quasi-judicial procedures in TDC 32.230.
- (d) The City must provide notice of the extension request to past recipients of the Architectural Review notice of decision and the applicant must post a sign pursuant to TDC 32.150.
- (e) The City Manager or Architectural Review Board, as applicable, may grant the extension of time upon finding the following:
 - (i) The applicant submitted a written extension request prior to the expiration date;
 - (ii) There have been no significant changes in any conditions, ordinances, regulations or standards of the City or applicable agencies that affect the previously approved project so as to warrant its resubmittal for Architectural Review;
 - (iii) If the previously approved application included a special study, the applicant provided a status report includes a letter from a recognized professional that states that conditions have not changed after the original approval and that no new study is warranted; and
 - (iv) If the site has been neglected so as to allow the site to become blighted, the deciding party must factor this into its decision.
- (f) The City Manager or Architectural Review Board, as applicable, may grant or deny the extension request. The decision must be in writing and must be made within ~~60~~ sixty (60) days of receipt of the request for extension. If the decision is

to grant the extension, the extension can be no more than a single one-year extension.

(g) Upon making the decision, the City must provide notice of the extension decision as provided in TDC 32.220 for Type II decisions made by the City Manager and TDC 32.230 for Type III decisions made by the Architectural Review Board.

Section 4. TDC 33.030 (Permit for New Driveway Approach and Closure Decisions) is amended to read as follows:

TDC 33.030. - Permit for New Driveway Approach and Closure Decisions.

~~(1) Purpose. To provide a process for the review of requests for driveway approaches and closures, as provided in TDC 75.020 and TDC 75.030.~~

~~(2) Applicability. All requests for driveway approaches and closures are as provided in this section and TDC 75.020 and TDC 75.030.~~

~~(3) Procedure Type. Driveway approaches and closure applications are subject to Type II Review in accordance with TDC Chapter 32.~~

~~(4) Specific Submittal Requirements. In addition to the general submittal requirements in TDC 32.140 (Application Submittal), the application must be accompanied by a detailed description of factors related to the approval criteria, including, but not limited to a Transportation Impact Analysis, as well as the submittal requirements in TDC 75.020 and TDC 75.030.~~

~~(5) Approval Criteria. If the City Manager finds the applicable criteria in TDC 75.020 and TDC 75.030 have been met.~~

~~(6) Conditions of Approval. The City may impose conditions on the construction of arterial access including, but not limited to:~~

~~(a) Dedication of additional right-of-way;~~

~~(b) Creation of a joint access;~~

~~(c) Construction of left turn lanes;~~

~~(d) Construction of right turn lanes;~~

~~(e) Installation of traffic signals; and~~

~~(f) Limitation of access to right turn in, right turn out by construction of raised median barriers or other means.~~

~~(7) *Permit Expiration.* The expiration date for permits granting a new driveway approach must be as specified in the decision.~~

Section 5. TDC 33.120 (Variances and Minor Variances) is amended to read as follows:

TDC 33.120. Variances and Minor Variances.

(1) *Purpose.* To establish a procedure for the granting of Variance and Minor Variances to the standards of the Tualatin Development Code. Exceptions:

(a) Variances to the requirements of TDC Chapter 70 (Floodplain District) must be in accordance with TDC Chapter 70.

(b) Sign variances must be in accordance with Section 33.080.

(2) *Applicability.* Variances may be granted to the requirements of the TDC as provided in this Section when it can be shown that, owing to special and unusual circumstances related to a specific piece of property, the literal interpretation of the TDC would cause an undue or unnecessary hardship.

(a) Variances may be requested for the following:

(i) Standards in TDC Chapters 40-69 and 71-73A through 73F.

(b) Minor variances may be requested for the following:

(i) In Residential Low Density Zone (RL) and Residential Medium to Low Density Zone (RML) for detached single family dwellings, accessory structures, duplexes, townhomes, triplexes, quadplexes, cottage clusters, or accessory dwelling units except for Small Lot Subdivisions:

(A) Up to a ten percent variation from the required lot area; and/or

(B) Up to a 20 percent variation from the required lot width, building coverage, setbacks, projections into required yards and structure height development standards for permitted uses.

~~(ii) For single family dwellings in Small Lot Subdivisions in Residential Low Density (RL) and Residential Medium to Low Density Zone (RML):~~

~~(A) Up to a ten percent variation from the required lot area; and/or~~

~~(B) Up to a 20 percent variation from the required lot width, building coverage, setbacks, projections into required yards and structure height development standards.~~

(c) *Prohibited.* Variances and minor variances are not allowed:

(i) To permit a use of land that is not permitted or conditionally permitted in a zone.

~~(ii) For Level I (Clear and Objective) Single-family Architectural Review standards referenced in TDC 40.140 and 41.130 and set forth in TDC 73A.110.~~

(3) *Procedure Type.*

(a) Applications for a Minor Variance are subject to Type II review in accordance with TDC Chapter 32.

(b) Applications for a Variance are subject to Type III review in accordance with TDC Chapter 32.

(4) *Specific Submittal Requirements.* In addition to the general submittal requirements in TDC 32.140 (Application Submittal), an applicant must submit the following additional information:

(a) The name, addresses and telephone numbers of the architect, landscape architect and engineer; and

(b) If requesting a variance to lot width, building coverage, setbacks, projections into required yards and structure height then a property survey stamped by a qualified professional is required.

(5) *Approval Criteria for Granting a Minor Variance.* A minor variance must not be granted unless the application shows the following approval criteria are met:

(a) A hardship is created by an unusual situation that is the result of lot size, lot shape, topography, development circumstances or being able to use the land or public infrastructure more efficiently;

(b) The hardship does not result from regional economic conditions;

(c) The minor variance will not be injurious to property abutting the subject property; and

(d) The minor variance is the minimum remedy necessary to alleviate the hardship.

(6) *Approval Criteria for Granting a Variance that is not a Minor Variance or for a Wireless Communication Facility.* A variance must not be granted unless it can be shown that criterion (a) is met and three of the four approval criteria (b)-(e) are met for non-sign requests:

(a) A hardship is created by exceptional or extraordinary conditions applying to the property that do not apply generally to other properties in the same zone or vicinity and the conditions are a result of lot size or shape, topography, or other physical circumstances applying to the property over which the applicant or owner has no control.

(b) The hardship does not result from actions of the applicant, owner or previous owner, or from personal circumstances or financial situation of the applicant or owner, or from regional economic conditions.

(c) The variance is necessary for the preservation of a property right of the applicant or owner substantially the same as is possessed by owners of other property in the same zone or vicinity.

(d) The variance must not be detrimental to the applicable goals and policies of the Tualatin Comprehensive Plan and must not be injurious to property in the zone or vicinity in which the property is located.

(e) The variance is the minimum remedy necessary to alleviate the hardship.

(7) *Approval Criteria for Granting a Variance for a Wireless Communication Facility.* A variance to the separation or height requirements for wireless communication facilities must not be granted unless it can be shown that the following criteria are met. The criteria for granting a variance to the separation or height requirements for wireless communication facilities is limited to this section, and does not include the standard variance criteria of Section TDC 33.120(6), Approval Criteria for Granting a Variance that is not for a Wireless Communication Facility.

(a) The City may grant a variance from the provisions of TDC 73F, which requires a 1,500 foot separation between WCFs, providing the applicant demonstrates compliance with (i) or (ii) below.

(i) *Coverage and Capacity.*

(A) It is technically not practicable to provide the needed capacity or coverage the tower is intended to provide and locate the proposed tower on available sites more than 1,500 feet from an existing wireless communication facility or from the proposed location of a wireless communication facility for which an application has been filed and not denied. The needed capacity or coverage must be documented with a Radio Frequency report;

(B) The collocation report, required as part of the Architectural Review submittal, must document that the existing WCFs within 1,500 feet of the proposed WCF, or a WCF within 1,500 feet of the

proposed WCF for which application has been filed and not denied, cannot be modified to accommodate another provider; and

(C) There are no available buildings, light or utility poles, or water towers on which antennas may be located and still provide the approximate coverage the tower is intended to provide.

(ii) *Site Characteristics*. The proposed monopole location includes tall, dense evergreen trees that will screen at least 50 percent of the proposed monopole from the RL District or from a small lot subdivision in the RML District.

(b) The City may grant a variance to the maximum allowable height for a WCF if the applicant demonstrates:

(i) It is technically not practicable to provide the needed capacity or coverage the tower is intended to provide at a height that meets the TDC requirements. The needed capacity or coverage must be documented with a Radio Frequency report; and

(ii) The collocation report, required as part of the Architectural Review submittal, must document that existing WCFs, or a WCF for which an application has been filed and not denied, cannot be modified to provide the capacity or coverage the tower is intended to provide.

Section 6. TDC 34.030 (Home Occupations) is amended to read as follows:

TDC 34.030. - Home Occupation Standards.

The following standards apply to home occupations in the City of Tualatin:

(1) A residence dwelling unit that houses a home occupation may have only one sign and the sign must comply with TDC 38.110(11).

(2) A person operating a home occupation must obtain a business license from the City of Tualatin. This person must also maintain all other permits required by other agencies for the home occupation.

(3) Home occupations may include the retailing of goods not produced by the home occupation but directly related to the home occupation if:

(a) The retailing is secondary and ancillary to the home occupation; or

(b) The retailing occurs in a presentation and sale of goods or services to a social gathering of invited guests no more than six times in a calendar year at the home occupation location.

(4) All materials and equipment must be stored inside built structures on the premises. Interior storage of materials and equipment must be secondary to the residential use of the dwelling. Storage must not be used as a material or equipment staging area. Equipment may be stored on the home occupation vehicle.

(5) Noise, smoke and odors may not exceed those created by normal residential use.

(6) The home occupation must be owned and operated by a resident at the home occupation site. The home occupation may employ one other on-site employee who is not a resident of the ~~building~~ dwelling unit. Off-site employees are permitted.

(7) The home occupation must not be used as a headquarters or meeting location for the assembly of employees or subcontractors for any reason, including staging or dispatch of employees or subcontractors to other locations, except as specified under TDC 34.030(14). Off-site employees and subcontractors may not keep their motor vehicles at the home occupation during a work day.

(8) The ~~residence~~ dwelling unit must not be altered in a manner that will change its primary residential appearance or use. A home occupation does not change the dwelling unit classification as a dwelling unit in the Oregon Uniform Building Code.

(9) Only one motor vehicle not exceeding 15,000 pounds GVW is permitted for use in the home occupation at the home occupation location. No other motor vehicle storage is permitted for the home occupation. No commercial motor vehicle as defined in ORS 801.208 may be allowed as part of a home occupation.

(10) On-street parking may not prevent access to mailboxes, driveways, fire hydrants, garbage or recycling receptacle pick-up.

(11) The home occupation may generate no more than ten one-way client and subcontractor vehicular trips per day. For home occupations relating to instructional services, no more than 20 one-way client and subcontractor vehicular trips may be permitted per day. Trips attributable to the residential use are not attributed to the home occupation in determining compliance with this section.

(12) No employee, client, subcontractor or delivery trips to the home occupation may be made between 10:00 pm and 7:30 am.

(13) A person may not work on three or more motor vehicles per week at a residence. If a person is, the City will presume that the person is operating an unauthorized home occupation.

(14) A board or staff meeting of the home occupation may be held quarterly at the site of the home occupation.

Section 7. TDC 36.100 (Property Line Adjustments) is amended to read as follows:

TDC 36.100. Property Line Adjustments.

(1) *Applicability.* Property line adjustment approval is required before a property line can be relocated or eliminated. A property line adjustment is required to relocate or eliminate all or a portion of a common property line between two abutting units of land that were lawfully established, as defined by ORS 92.010(3)(a). Property line adjustments cannot be used to create an additional unit of land, or to create units of land that are nonconforming.

(2) *Procedure Type.* A property line adjustment is processed as a Type I procedure under TDC 32.210.

(3) *Submittal Requirements.* In addition to the application materials required by TDC 32.140 (Application Submittal), the following application materials are also required:

- (a) A copy of recorded deeds for the existing units of land;
- (b) A site plan, drawn to scale, indicating:
 - (i) The dimensions and areas of the units of land before and after the proposed property line adjustment; and
 - (ii) Setbacks, building separations, lot coverage, vehicular access, and public and private utilities.
- (c) A copy of the proposed property line adjustment deed containing:
 - (i) The names of the owners;
 - (ii) Legal description of the adjusted lines;
 - (iii) References to original recorded deeds; and
 - (iv) Place for the signatures of all parties, along with proper acknowledgment.

(4) *Approval Criteria.* A property line adjustment must be approved if all of the following criteria are met:

- (a) The property line adjustment will not create an additional unit of land;
- (b) The property line adjustment will not create nonconforming units of land or nonconforming development, or increase the degree of nonconformity in existing units of land or existing development;
- (c) The property line adjustment involves only units of land that were lawfully established, where the instruments creating the units of land have been properly recorded;

(d) The property line adjustment is not prohibited by any existing City land use approval, or previous condition of approval, affecting one or both of the units of land;

(e) The property line adjustment does not involve the relocation or elimination of any public easement or right-of-way; and

(f) The property line adjustment does not adversely ~~affect~~ impact the availability or access to public and private utilities or streets.

(5) *Multiple Property Line Adjustments.* If more than three property line adjustment applications affecting the same unit of land are proposed within a six month period, the property line adjustments must be processed as follows:

(a) When the units of land are within a recorded plat, the property line adjustments affecting the units of land must be by replat; and

(b) When the units of land are not within a recorded plat, the property line adjustments affecting the units of land must be by partition.

(6) *Monumentation.* Property line adjustments must be surveyed and monumented as required by state law.

(7) *Expiration; Recording.*

(a) Property line adjustment approval expires two years from the effective date, unless a property line adjustment deed is recorded in the deed records of the appropriate county.

(b) Multiple property line adjustments processed according to subsection (5) expire as provided in the expiration period specified for replats, partitions, or subdivisions as applicable.

(c) Evidence demonstrating that the property line adjustment deed has been recorded with the appropriate county must be provided to the City Manager after recording.

Section 8. TDC 36.110 (Tentative Partition Plan) is amended to read as follows:

TDC 36.110. Tentative Partition Plan.

(1) *Applicability.* Tentative Partition Plan approval is required before land can be divided into three or fewer parcels within a calendar year. When the area of a proposed partition is such that it can be further divided resulting in four or more lots or parcels, the development standards applicable to subdivisions set forth in TDC 36.120 (Tentative Subdivision Plan) apply and any improvements resulting from the application of those standards to the proposed partition must be constructed.

(2) *Procedure Type.* A Tentative Partition Plan is processed as a Type II procedure under TDC 32.220.

(3) *Submittal Requirements.*

(a) Prior to submitting an application for a Tentative Partition Plan, the applicant must comply with the pre-application conference requirements in TDC 32.110 (Pre-Application Conference) and Neighborhood/Developer Meeting requirements in TDC 32.120 (Neighborhood/Developer Meetings).

(b) In addition to the submittal requirements for a Type II application under TDC 32.140 (Application Submittal), an application for a Tentative Partition Plan must include the information required in TDC 36.040(2)(Additional Submittal Requirements).

(4) *Approval Criteria.* A Tentative Partition Plan must be approved if all of the following criteria are met:

(a) The Tentative Partition Plan complies with the standards of this Chapter and with all applicable provisions of the TDC, including, but not limited to the following:

(i) Lot standards, including, but not limited to, standards for lot area, lot width and depth, lot frontage, and designation of front and rear lot lines;

(ii) City infrastructure standards; and

(iii) Any special development standards, including, but not limited to, floodplain development, special setbacks, geological or geotechnical analysis, and vision clearance.

(b) The Tentative Partition Plan does not impede the future use or development of the property or adjacent land.

(c) Development within the Tentative Partition Plan can be adequately served by City infrastructure.

(d) The street system in and adjacent to the Tentative Subdivision Plan conforms to the requirements of TDC Chapter 74, TDC Chapter 75, and Tualatin Transportation System Plan.

(e) The street system in and adjacent to the Tentative Partition Plan is designed so as to provide for the safe, orderly, and efficient circulation of traffic into, through, and out of the partition area.

(f) The Tentative Partition Plan takes into account the topography and vegetation of the site so the need for variances is minimized to the greatest extent practicable.

(g) The layout, size, and dimensions of the parcels within the Tentative Partition Plan take into account the topography and vegetation of the site, such that the least disruption of the site, topography, and vegetation will occur from the reasonable development of the parcels.

(5) *Effective Date.* The effective date of a Tentative Partition Plan approval is the date the notice of decision is mailed.

(6) *Permit Expiration.* Tentative Partition Plan approval expire in two years of the effective date, unless an application for final plat is submitted within two years of the effective date, or an extension is granted under TDC 36.210 (Extension of Approval Decision).

Section 9. TDC 36.115 (Housing Clear and Objective Tentative Partition Plan Approval Criteria) is created to read as follows:

TDC 36.115 - Housing Clear and Objective Tentative Partition Plan Approval Criteria.

Unless the applicant elects to use the discretionary criteria contained in TDC 36.110, for housing applications entitled to clear and objective review pursuant to state statute, the City Manager must approve, conditionally approve, or deny the partition application based on the following criteria:

(1) The proposed land uses is consistent with the land use zone.

(2) The proposed partition complies with all of the following, unless specifically exempt from compliance through a code provision applicable to a special area zone or overlay zone:

(a) The applicable lot dimensions, setbacks, and density requirements for the subject zone and any applicable overlay zones;

(b) The Residential Design Standards in TDC 73A.100 through 73A.130; or Cottage Cluster Design Standards in 73A.150;

(c) The Landscape Standards in 73B.020, 73B.050, and 73B.080;

(d) The Parking Standards in TDC 73C.010 through 73C.130;

(e) The Public Improvement Requirements in TDC 74.110 through 74.140;

(f) The Right of Way Standards in 74.210, TDC 74.410 through 74.430;

(g) The Greenway, Natural Area, Bike, and Pedestrian Path Requirements in TDC 72 and TDC 74.310;

(h) The Easement Requirements in TDC 74.320 through 74.350;

(i) The Bikeway and Pedestrian Path Requirements in TDC 74.450;

(j) The Accessway Requirements in TDC 74.460;

(k) The Street Name and Sign Requirements in TDC 74.475 and 74.480;

(l) The Street Tree requirements in TDC 74.485;

(m) The Utility Standards in TDC 74.610 through 74.670; TMC 3-02 (Sewer), TMC 3-03 (Water), and TMC 3-5-010 through 35—190 (Stormwater);

(n) The Street Tree Standards in TDC 74.765;

(o) The Access Management Standards in TDC Chapter 75;

(p) The Floodplain Development Standards in TDC Chapter 70;

(q) Any applicable Special Setback Standards;

(r) Vision Clearance Area in 75.040(12);

(s) The Requirements in the Clean Water Services Service Provider Letter;

(t) The Surface Water Management Standards in TMC 3-5-200 through 3-5-460;

(u) For development in the Wetland Protection District, the requirements in TDC 71;

(v) The Existing Structures and Appurtenances Provisions in TDC 36.340; and

(w) The applicable Lot Dimensions in TDC 36.400.

(3) The proposed partition will not cause any existing improvements on the proposed lots to be inconsistent with applicable standards in this land use code.

(4) The proposed partition provides for the provision of pedestrian, bicycle and transit circulation among buildings located within the development site, as well as to adjacent and nearby residential areas, transit stops, neighborhood activity centers, office parks,

and industrial parks. “Nearby” means uses within 1/4 mile that can reasonably be expected to be used by pedestrians, and uses within 2 miles that can reasonably be expected to be used by bicyclists.

(5) The partition complies with development standards explicitly addressed in the application.

Section 10. TDC 36.120 (Tentative Subdivision Plan) is amended to read as follows:

TDC 36.120. Tentative Subdivision Plan.

(1) *Applicability.* Tentative Subdivision Plan approval is required before land is divided into four or more lots within a calendar year. For Phased Subdivisions, see TDC 36.130 (Phased Tentative Subdivision Plan). For Manufactured Dwelling Park Subdivisions, see TDC 36.140 (Manufactured Dwelling Park Tentative Subdivision Plan).

(2) *Procedure Type.* A Tentative Subdivision Plan is processed as a Type II procedure under 32.220.

(3) *Submittal Requirements.*

(a) Prior to submitting an application for a Tentative Subdivision Plan, the applicant must comply with the pre-application conference requirements in TDC 32.110 (Pre-Application Conference) and Neighborhood/Developer Meeting requirements in TDC 32.120 (Neighborhood/Developer Meetings).

(b) In addition to the submittal requirements for a Type II application under TDC 32.140 (Application Submittal), an application for subdivision tentative plan must include the information required in TDC 36.040(2) (Additional Submittal Requirements).

(4) *Approval Criteria.* A Tentative Subdivision Plan must be approved if all of the following criteria are met:

(a) The Tentative Subdivision Plan complies with the standards of this Chapter and with all applicable provisions of the TDC, including, but not limited to, the following:

(i) Lot standards, including, but not limited to, standards for lot area, lot width and depth, lot frontage and designation of front and rear lot lines.

(ii) City infrastructure standards; and

(iii) Any special development standards, including, but not limited to, floodplain development, special setbacks, geological or geotechnical analysis, and vision clearance.

(b) The Tentative Subdivision Plan does not impede the future use or development of the property or adjacent land.

(c) Development within the Tentative Subdivision Plan can be adequately served by City infrastructure.

(d) The street system in and adjacent to the Tentative Subdivision Plan conforms to the requirements of TDC Chapter 74, TDC Chapter 75, and Tualatin Transportation System Plan.

(e) The street system in and adjacent to the Tentative Subdivision Plan is designed so as to provide for the safe, orderly, and efficient circulation of traffic into, through, and out of the subdivision.

(f) The Tentative Subdivision Plan provides safe and convenient bicycle and pedestrian access from within the subdivision to adjacent residential areas and transit stops, existing or planned schools, parks, shopping areas, transit stops, employment centers, and other neighborhood amenities.

(g) The Tentative Subdivision Plan mitigates impacts to the transportation system consistent with the approved Traffic Impact Analysis, ~~where applicable,~~ in TDC Chapters 74 and 75, and the Tualatin Transportation System Plan.

(h) The Tentative Subdivision Plan takes into account the topography and vegetation of the site so the need for variances is minimized to the greatest extent practicable.

(i) The Tentative Subdivision Plan takes into account the topography and vegetation of the site, such that the least disruption of the site, topography, and vegetation will result from the reasonable development of the lots.

(j) All transportation improvements are designed to comply with the requirements in TDC Chapters 74 and 75, and the Tualatin Transportation System Plan.

(5) *Effective Date.* The effective date of a Tentative Subdivision Plan approval is the date the notice of decision is mailed.

(6) *Permit Expiration.* Tentative Subdivision Plan approval expires approval expires two years from the effective date, unless an application for final plat is submitted within two years of the effective date, or an extension is granted under TDC 36.210 (Extension of Approval Decision).

Section 11. TDC 36.125 (Housing Clear and Objective Tentative Subdivision Plan Approval Criteria) is created to read as follows:

TDC 36.125 - Housing Clear and Objective Tentative Subdivision Plan Approval Criteria.

Unless the applicant elects to use the discretionary criteria contained in TDC 36.120, for housing applications entitled to clear and objective review pursuant to state statute, the City Manager must approve, conditionally approve, or deny the subdivision application based on the following criteria:

(1) The proposed land uses is consistent with the land use zone.

(2) The proposed subdivision complies with all of the following, unless specifically exempt from compliance through a code provision applicable to a special area zone or overlay zone:

(a) The applicable lot dimensions, setbacks, and density requirements for the subject zone and any applicable overlay zones;

(b) The Residential Design Standards in TDC 73A.100 through 73A.130; or Cottage Cluster Design Standards in 73A.150;

(c) The Landscape Standards in 73B.020, 73B.050, and 73B.080;

(d) The Parking Standards in TDC 73C.010 through 73C.130;

(e) The Public Improvement Requirements in TDC 74.110 through 74.140;

(f) The Right of Way Standards in 74.210, TDC 74.410 through 74.430;

(g) The Greenway, Natural Area, Bike, and Pedestrian Path Requirements in TDC 72 and TDC 74.310;

(h) The Easement Requirements in TDC 74.320 through 74.350;

(i) The Bikeway and Pedestrian Path Requirements in TDC 74.450;

(j) The Accessway Requirements in TDC 74.460;

(k) The Street Name and Sign Requirements in TDC 74.475 and 74.480;

(l) The Street Tree requirements in TDC 74.485;

(m) The Utility Standards in TDC 74.610 through 74.670; TMC 3-02 (Sewer), TMC 3-03 (Water), and TMC 3-5-010 through 35—190 (Stormwater);

(n) The Street Tree Standards in TDC 74.765;

(o) The Access Management Standards in TDC Chapter 75;

- (p) The Floodplain Development Standards in TDC Chapter 70;
- (q) Any applicable Special Setback Standards;
- (r) Vision Clearance Area in 75.040(12);
- (s) The Requirements in the Clean Water Services Service Provider Letter;
- (t) The Surface Water Management Standards in TMC 3-5-200 through 3-5-460;
- (u) For development in the Wetland Protection District, the requirements in TDC 71;
- (v) The Existing Structures and Appurtenances Provisions in TDC 36.340; and
- (w) The applicable Lot Dimensions in TDC 36.400.

(3) The proposed subdivision will not cause any existing improvements on the proposed lots to be inconsistent with applicable standards in this land use code.

(4) The proposed subdivision provides for the provision of pedestrian, bicycle and transit circulation among buildings located within the development site, as well as to adjacent and nearby residential areas, transit stops, neighborhood activity centers, office parks, and industrial parks. "Nearby" means uses within 1/4 mile that can reasonably be expected to be used by pedestrians, and uses within 2 miles that can reasonably be expected to be used by bicyclists.

(5) The subdivision complies with development standards explicitly addressed in the application.

Section 12. TDC. 36.410 (Small Lot Subdivision) is deleted in its entirety and replaced with the following:

TDC 36.410. - Flexible Lot Subdivisions for RL and RML Zones.

(1) To allow creativity and flexibility in subdivision design and to address physical constraints, such as topography, existing development, significant trees and other natural and built features. The Flexible Lot Subdivision provisions are selected by the applicant and subject to the discretionary subdivision standards in TDC 36.120 and not the Housing Clear and Objective Standards in TDC 36.125.

(2) Lot Size for Flexible Lots.

(a) *RL Zone.* The minimum lot size may be reduced to 5,000 square feet if:

(i) The density of the proposed subdivision does not exceed the density allowed in the zone; and

(ii) The subdivision consists of:

(A) Less than nine (9) lots; or

(B) At least 5% of gross site area on the plat is dedicated as open space. Stormwater and drainage facilities are not counted toward percentage of open space requirement.

(b) RML Zone. The minimum lot size for Detached Single Family Dwellings, Duplexes, Triplexes, and Quadplexes may be reduced to 3,000 square feet if:

(i) The density of the proposed subdivision does not exceed the density allowed in the zone;

(ii) The site is a minimum of 1 acre;

(iii) At least 5% of gross site area is dedicated on the plat as open space. Proposed open space must be for tree preservation and/or active and passive open space. Stormwater and drainage facilities are not counted toward percentage of open space requirement;

(iv) A minimum of 20% of the dwelling units must include Townhomes, Duplexes, Triplexes, or Quadplexes;

(v) No more than 70% of the approved Single-Family Dwellings may be issued Building Permits prior to the construction and issuance of Certificates of Occupancy for all approved housing types (i.e., non-single-family dwellings) in accordance with a City approved phasing plan; and

(vi) All other requirements of the zone must be followed, except as modified by (i) through (v).

Section 13. TDC 39.200 (Household Living) is amended to read as follows:

TDC 39.200. Household Living.

(1) *Characteristics.* Household Living is the residential occupancy of an owner-occupied or rented dwelling unit by a family or household. Dwelling units must be self-contained, with cooking, sleeping and bathroom facilities. Occupancy is long-term, 30 days or more, and non-transient.

(2) *Housing Types.* Household Living uses can be accommodated in the following housing types. Housing types are subject to the regulations specific to each planning district or overlay district.

- Single-Family Dwelling (detached) (as defined in TDC 31.060).
- Accessory Dwelling Unit (as defined in TDC 31.060).
- Manufactured Dwelling (as defined in TDC 31.060).
- Manufactured Dwelling Park (as defined in the TDC 31.060).
- Cottage Cluster (as defined in the TDC 31.060).
- Duplex (as defined in the TDC 31.060).
- Townhouse (as defined in the TDC 31.060).
- Triplex (as defined in the TDC 31.060).
- Multi-Family Structure (as defined in the TDC 31.060).
- Retirement Housing Facility (as defined in TDC 31.060).
- Residential Home (as defined in TDC 31.060).
- Quadplex (as defined in the TDC 31.060).

(3) *Exceptions.*

- Bed and breakfast inns are classified as Commercial Lodging.
- Rentals of less than 30 days are classified as Commercial Lodging.

Section 14. TDC 40.220 (Housing Types) and Table 40-2 are amended to read as follows:

TDC 40.220. Housing Types.

Table 40-2 lists housing types permitted in the RL zone. Housing types may be Permitted Outright (P), Conditionally Permitted (C), or Not Permitted (N).

**Table 40-2
Housing Types in the RL Zone**

HOUSING TYPE	STATUS	LIMITATIONS AND CODE REFERENCES

Single-Family Dwelling	P/C	Single-family dwellings in a small lot subdivision permitted with conditional use permit, subject to TDC 36.410 All other single-family dwellings permitted outright.
Accessory Dwelling Unit	P	Subject to TDC 34.600 <u>73A.170</u> .
<u>Duplex</u> Townhouse	C <u>P</u>	<u>See TDC definition in 31.060.</u>
<u>Townhouse</u>	<u>P</u>	<u>See TDC definition in 31.060.</u>
<u>Triplex</u>	<u>P</u>	<u>See TDC definition in 31.060.</u>
<u>Quadplex</u>	<u>P</u>	<u>See TDC definition in 31.060.</u>
<u>Cottage Cluster</u>	<u>P</u>	<u>See TDC definition in 31.060.</u>
Manufactured Dwelling	P	Subject to TDC 40.300(4)
Manufactured Dwelling Park	N	
Retirement Housing Facility	C	Subject to TDC 34.400.
Residential Home	P	See TDC definition in 31.060

Section 15. TDC 40.300 (Development Standards) and Table 40-3 are amended to read as follows:

TDC 40.300 – Development Standards.

(1) Development standards in the RL zone are listed in Table 40-3. Additional standards may apply to some uses and situations, see TDC 40.310. The standards in Table 40-3 may be modified for ~~small lot subdivision~~ flexible lot subdivisions as provided in TDC 36.410 and for greenway and natural area dedications as provided in TDC 36.420.

(2) Exceptions. Existing non-conforming situations may be developed according to the provisions of TDC Chapter 35.

**Table 40-3
Development Standards in the RL Zone**

STANDARD	REQUIREMENT	LIMITATIONS AND CODE REFERENCES
MAXIMUM DENSITY		
Single-Family Dwelling	Maximum: 6.4 units per acre	
<u>Duplex</u>	<u>None</u>	
<u>Townhouse</u>	<u>25 units per acre</u>	
<u>Triplex</u>	<u>None</u>	
<u>Quadplex</u>	<u>None</u>	
<u>Cottage Cluster</u>	<u>None</u>	<u>Minimum density of 4 units per acre.</u>
Retirement Housing or Congregate Care Facility	10 units per acre	
MINIMUM LOT SIZE		
Single-Family Dwelling	Average of 6,500 square feet	May be reduced for <u>Small Flexible Lot Subdivisions</u> , subject to TDC 36.410, or Greenway and Natural Area dedications, subject to TDC 36.420.
<u>Duplex</u>	<u>6,500 square feet</u>	<u>May be reduced for Flexible Lot Subdivisions, subject to TDC 36.410.</u>
<u>Townhouse</u>	<u>1,400 square feet</u>	
<u>Triplex</u>	<u>6,500 square feet</u>	<u>May be reduced for Flexible Lot Subdivisions, subject to TDC 36.410.</u>
<u>Quadplex</u>	<u>6,500 square feet</u>	<u>May be reduced for Flexible Lot Subdivisions, subject to TDC 36.410.</u>
<u>Cottage Cluster</u>	<u>6,500 square feet</u>	<u>May be reduced for Flexible Lot Subdivisions, subject to TDC 36.410.</u>
Conditional Uses	6,000 square feet	

Infrastructure and Utilities Uses	—	As determined through the Subdivision, Partition, or Lot Line Adjustment process.
MINIMUM LOT WIDTH		
Single-Family Dwelling	50 feet	May be reduced to 30 feet if on a cul-de-sac. Average minimum lot width is 30 feet.
<u>Duplex, Triplex, Quadplex, and Cottage Clusters</u>	<u>50 feet</u>	<u>May be reduced to 30 feet if on a cul-de-sac.</u> <u>Average minimum lot width is 30 feet.</u>
<u>Townhouse</u>	<u>None</u>	
Conditional Uses	50 feet	May be reduced to 30 feet if on a cul-de-sac. Average minimum lot width is 30 feet.
Flag Lots	—	Must be sufficient to comply with minimum access requirements of TDC 73C.
MINIMUM SETBACKS		
Front	15 feet	May be reduced to 12 feet if to an unenclosed porch.
Secondary Frontage on Corner Lot	10 feet	The secondary frontage is determined by the orientation of the structure, based on the location of the front door.
Garage Door	20 feet	
Side	5 feet	<u>Zero-foot side setbacks permitted for lot or parcel lines where Townhouse units are attached.</u>
Rear	15 feet	

Conditional Uses	—	As determined through Architectural Review process. No minimum setback must be greater than 50 feet. Parking and vehicular circulation areas must be set back a minimum of ten feet from any public right-of-way or property line.
Any Yard Area Adjacent to Basalt Creek Parkway	50 feet	
MAXIMUM STRUCTURE HEIGHT		
All Uses	35 feet	May be increased to a maximum of 50 feet <u>through Type II Architectural Review with a conditional use permit</u> , if all setbacks are not less than 1½ times the height of the building.
MAXIMUM LOT COVERAGE		
Single Family Dwelling	45%	
<u>Duplex</u>	<u>45%</u>	
<u>Townhouse</u>	<u>75%</u>	
<u>Triplex</u>	<u>60%</u>	
<u>Quadplex</u>	<u>60%</u>	
<u>Cottage Cluster</u>	<u>75%</u>	
Conditional Uses	40%	
MAXIMUM FLOOR AREA RATION (FAR)		
<u>Single Family Dwelling, Duplex, Townhouse, Triplex, Quadplex</u>		<u>FAR does not apply to Cottage Clusters.</u>
<u>Lot size</u>	<u>Maximum FAR</u>	
<u>3,000 sf or less</u>	<u>1.4 to 1</u>	
<u>3,001 to 5,000 sf</u>	<u>1.1 to 1</u>	
<u>5,001 to 10,000 sf</u>	<u>0.7 to 1</u>	
<u>10,001 to 19,999 sf</u>	<u>0.6 to 1</u>	
<u>20,000 sf or more</u>	<u>0.4 to 1</u>	

Section 16. TDC 40.320 (Additional Development Standards) is amended to read as follows:

TDC 40.320. - Additional Development Standards.

(1) ~~Small~~ Flexible Lot Subdivisions. The minimum lot size and other development standards for single-family dwellings in the RL zone may be reduced or modified for lots included as part of a ~~small~~ flexible lot subdivision. See TDC 36.410.

(2) *Greenway and Natural Area Dedications*. The minimum lot size and other development standards for single-family dwellings in the RL zone may be reduced or modified if land is dedicated for a Greenway or Natural Area. See TDC 36.420.

(3) *Manufactured Homes*. Except for manufactured homes placed in manufactured dwelling parks, manufactured homes must meet the following standards:

(a) *Minimum Size*. The manufactured home must be multi-sectional and enclose a space of not less than 1,000 square feet. A manufactured home is not considered multi-sectional by having a tip-out section.

(b) *Foundation Requirements*. The manufactured home must be placed on an excavated and back-filled foundation and enclosed at the perimeter such that the manufactured home is located not less than 1 foot above grade. However, a structural concrete foundation (such as that for a single-family dwelling) is not required.

(c) *Roof Form and Materials*. The manufactured home must have a pitched roof with a minimum slope of one foot in height for each four feet of width. The roof must be comprised of shingles, wood shakes, tiles, or other materials which create a similar appearance. Exposed flat, corrugated or ribbed sheet metal, fiberglass, or other materials similar in form or appearance cannot be used as roofing material but may be used for corner and edge flashing.

(d) *Insulation Requirements*. The manufactured home must be certified by the manufacturer to have exterior thermal envelope meeting performance standards which reduce heat loss to levels equivalent to the performance standards required of single family dwellings constructed under the State Building Code.

(e) *Garage Requirement*. The manufactured home must have an attached or detached two-car garage constructed of materials similar to the manufactured home.

Section 17. TDC 41.100 (Purpose) is amended to read as follows:

TDC 41.100. - Purpose.

The purpose of this zone is to provide areas of the City suitable for townhouses, condominiums, duplexes, triplexes and other multi-family dwellings, as well as areas for small lot, small home subdivisions, and manufactured dwelling parks in designated areas. household living uses with a variety of housing types at moderately low densities. This district is primarily oriented toward middle housing types including attached dwellings, multi-family development, and manufactured dwelling parks.

Section 18. TDC 41.200 (Use Categories) and Table 41-2 are amended to read as follows:

TDC 41.200. - Use Categories.

(1) *Use Categories.* Table 41-1 lists use categories Permitted Outright (P) or Conditionally Permitted (C) in the RML zone. Use categories may also be designated as Limited (L) and subject to the limitations listed in Table 41-1 and restrictions identified in TDC 41.210. Limitations may restrict the specific type of use, location, size, or other characteristics of the use category. Use categories which are not listed are prohibited within the zone, except for uses which are found by the City Manager or appointee to be of a similar character and to meet the purpose of this zone, as provided in TDC 31.070.

(2) *Overlay Zones.* Additional uses may be allowed in a particular overlay zone. See the overlay zone Chapters for additional uses.

**Table 41-2
Housing Types in the RML Zone**

HOUSING TYPE	STATUS	LIMITATIONS AND CODE REFERENCES
Single-Family Dwelling	<u>PC</u>	Limited to single-family dwellings in a <u>flexible small lot subdivision, with conditional use permit</u> , subject to TDC 36.410. Limited to single-family dwellings in a small lot subdivision, with conditional use permit, and if the development is located south of Norwood Road and east of Boones Ferry Road (Basalt Creek Area), subject to TDC 36.410(1) and TDC 41.330.
Accessory Dwelling Unit	P	Subject to TDC 34.600 <u>73A.170</u> .
Duplex Townhouse (or Rowhouse)	P	See TDC definition in 31.060.
<u>Townhouse</u>	<u>P</u>	<u>See TDC definition in 31.060.</u>
<u>Triplex</u>	<u>P</u>	<u>See TDC definition in 31.060.</u>

<u>Quadplex</u>	<u>P</u>	<u>See TDC definition in 31.060.</u>
<u>Cottage Cluster</u>	<u>P</u>	<u>See TDC definition in 31.060.</u>
Multi-Family Structure (5 or more units)	P	See TDC definition in 31.060.
Manufacturing Dwelling	N	See TDC definition in 31.060.
Manufactured Dwelling Park	P	Limited to locations designated by the Tualatin Community Plan Map and subject to TDC 34.190.
Retirement Housing Facility	C	Subject to TDC 34.400.
Residential Home	P	See TDC definition in 31.060.

Section 19. TDC 41.300 (Development Standards) and Table 41-3 are amended to read as follows:

TDC 41.300. - Development Standards.

(1) Development standards in the RML zone are listed in Table 41-3. Additional standards may apply to some uses and situations, see TDC 41.310. The standards in Table 41-3 may be modified for greenway and natural area dedications as provided in TDC 36.420.

(2) Exceptions. Existing non-conforming situations may be developed according to the provisions of TDC Chapter 35.

**Table 41-3
Development Standards in the RML Zone**

STANDARD	REQUIREMENT	LIMITATIONS AND CODE REFERENCES
MAXIMUM DENSITY		
<u>Household Living Uses</u>	<u>10 units per acre</u>	
<u>Single Family Dwellings</u>		
<u>Duplex</u>	<u>None</u>	
<u>Townhouse</u>	<u>25 units per acre</u>	
<u>Triplex</u>	<u>None</u>	
<u>Quadplex</u>	<u>None</u>	
<u>Cottage Cluster</u>	<u>None</u>	<u>Minimum density of 4 units per acre.</u>
<u>Multi-Family (5 or more units)</u>	<u>10 units per acre</u>	
<u>Manufactured Dwelling Parks</u>	<u>12 units per acre</u>	<u>Limited to single-wide dwelling parks or any part of a single-wide dwelling park.</u>

Retirement Housing Facility, or Congregate Care Facility	15 units per acre	
Nursing Facility	15 units per acre	
Group Living Uses	15 units per acre	
MINIMUM LOT SIZE		
Single Family Dwelling	3,000 square feet	Only in a Flexible Lot Subdivisions, subject to <u>TDC 36.410</u>
Duplex	4,500 square feet	May be reduced for Flexible Lot Subdivisions, subject to <u>TDC 36.410.</u>
Townhouse (or Rowhouse)	1,400 square feet	
Triplex	4,500 square feet	May be reduced for Flexible Lot Subdivisions, subject to <u>TDC 36.410.</u>
Quadplex	4,500 square feet	May be reduced for Flexible Lot Subdivisions, subject to <u>TDC 36.410.</u>
Cottage Cluster	4,500 square feet	May be reduced for Flexible Lot Subdivisions, subject to <u>TDC 36.410.</u>
Multi-Family Structure (5 or more units) and Duplex	20,000 square feet	
• Development on Less than One Acre	10,000 square feet	For up to two units, plus an additional 4,195 square feet for each unit exceeding two
• Development on More than One Acre	4,356 square feet per unit	
Multi-Family Structure under Condominium Ownership	20,000 square feet	Limited to the primary condominium lot.
All Other Permitted Uses	10,000 square feet	
Conditional Uses	20,000 square feet	
Infrastructure and Utilities Uses	—	As determined through the Subdivision, Partition, or Lot Line Adjustment process
MINIMUM AVERAGE LOT WIDTH		
Single Family Detached	26 feet	Only allowed for Flexible Lot Subdivisions, subject to <u>TDC 36.410.</u>
Townhouse (or Rowhouse)	14 feet	
Duplex, Triplex, Quadplex, and Cottage Clusters	50 feet	May be reduced to 30 feet if on a cul-de-sac. May be reduced to 26 feet for Flexible Lot Subdivisions, subject to <u>TDC 36.410.</u>
Multi-Family Structure	75 feet	May be 40 feet on a cul-de-sac street.

Multi-Family Structure under Condominium Ownership	100 feet	Limited to the primary condominium lot. Minimum lot width at street is 40 feet.
All Other Permitted Uses	75 feet	
Conditional Uses	100 feet	Minimum lot width at street is 40 feet.
Flag Lots	—	Must be sufficient to comply with minimum access requirements of TDC 73C.
MINIMUM SETBACKS		
<u>Single Family Detached, Duplex, Townhouse, Triplex, or Quadplex</u>		<u>Single Family Detached only in Flexible Lot Subdivisions, subject to TDC 36.410.</u>
<u>Front</u>	<u>10 feet</u>	
<u>Garage Door</u>	<u>20 feet</u>	
<u>Side</u>	<u>5 feet</u>	<u>Zero-foot side setbacks permitted for lot or parcel lines where Townhouse units are attached.</u>
<u>Rear</u>	<u>10 feet</u>	
<u>Multi-family (5 or more units), Conditional Uses, and Other Permitted Uses Not Listed</u>		
<u>Front</u>		
<u><12 feet</u>	<u>20 feet</u>	
<u>12-<25 feet</u>	<u>25 feet</u>	
<u>25- <30 feet</u>	<u>30 feet</u>	
<u>30+ feet</u>	<u>35 feet</u>	
<u>Side</u>	<u>5 feet</u>	
Front Setbacks		
• 1 story structure	20 feet	Minimum setback to a garage door must be 20 feet.
• 1.5 story structure	25 feet	
• 2 story structure	30 feet	
• 2.5 story structure	35 feet	
• Townhouse (or Rowhouse)	0-20 feet	As determined through Architectural Review process.
Side and Rear Setbacks		Where living spaces face a side yard, the minimum setback must be ten feet
• 1 story structure	5 feet	
• 1.5 story structure	7 feet	

• 2 story structure	10 feet	
• 2.5 story structure	12 feet	
Corner Lots	—	On corner lots, the setback is the same as the front yard setback on any side facing a street other than an alley <u>except for duplexes, triplexes, and quadplexes where the setback is 10 feet.</u>
Other Development Types		
Cottage Cluster	<u>10 feet on all sides</u>	<u>Minimum distance of 10 feet between units in a cottage cluster.</u>
Minimum Distance Between Buildings within One Development	10 feet	For Townhouses, determined through the Architectural Review process.
Parking and Vehicle Circulation Areas	10 feet	For Townhouses, determined through the Architectural Review process
Conditional Uses	—	As determined through Architectural Review process. No minimum setback must be, no <u>greater than 50 feet</u>
Any Yard Area Adjacent to Basalt Creek Parkway	50 feet	
MAXIMUM STRUCTURE HEIGHT		
All Uses	35 feet	May be increased to a maximum of 50 feet with a conditional use permit, If all setbacks are equal to or greater not less than 1½ times the height of the building, the height may be <u>increased to a maximum of 50 feet with a conditional use permit.</u>
MAXIMUM LOT COVERAGE		
Duplex	<u>60%</u>	
Townhouse (or Rowhouse)	<u>90%-75%</u>	
Triplex	<u>60%</u>	
Quadplex	<u>60%</u>	
Cottage Cluster	<u>75%</u>	
All Other Permitted Uses	40%	
Conditional Uses	45%	

Section 20. TDC 41.330 (Development Standards for Single-Family Dwellings in a Small Lot Subdivision for Certain Basalt Creek Area Properties) and Table 41-4 (Development Standards in the RML Zone Subject to TDC 41.330) are deleted in their entirety.

Section 21. TDC 58.200 (Use Categories in the CC Zone) and Table 58-1 are amended to read as follows:

TDC 58.200 - Use Categories in the CC Zone.

(1) *Modifications to Base Zone Use Regulations.* Some of the uses permitted in the CC zone are modified in the Central Tualatin Overlay Zone. Table 58-1 lists use categories that are modified in the overlay zone as Permitted Outright (P), Conditionally Permitted (C), or Prohibited (N). Use categories may also be designated as Limited (L) and subject to the limitations listed in Table 58-1 and restrictions identified in TDC 58.210. Use categories not listed in Table 58-1 are regulated as specified in the CC zone see TDC Chapter 53.

(2) *Sub-Districts.* Modifications to use regulations may vary by the sub-district within the overlay zone. There are three sub-districts within the CC zone in the Central Tualatin Overlay Zone. These sub-districts are defined by the block numbers listed below, except as otherwise noted.

(a) Residential Sub-District. Blocks 2, 3, 15, 16, 17, 18, 19, 20, 22 and 23.

(b) Commercial Sub-District. Block 30.

(c) Central Design District. Central Design District shown on Figure 73-4 and Map 8 of the Central Urban Renewal Plan.

**Table 58-1
Modifications to Use Regulations in the CC Zone**

USE CATEGORY	STATUS	LIMITATIONS AND CODE REFERENCES
RESIDENTIAL USE CATEGORIES		
Household Living	P (L)	Residential Sub-District: Permitted housing types limited to: <ul style="list-style-type: none"> • <u>Duplexes;</u> • <u>Triplexes;</u> • <u>Quadplexes;</u> • <u>Cottage Clusters;</u> • Multi-Family Structure and duplex; • Retirement Housing Facility, subject to Subject to TDC 58.210(1); and • Residential Homes.

Group Living	P (L)	Residential Sub-District: Permitted uses limited to: <ul style="list-style-type: none"> • Residential Facilities; and • Congregate Care Facility, subject to 58.210(1)
COMMERCIAL USE CATEGORIES		
All uses permitted in the CG zone	P (L)	Commercial Sub-District: All uses permitted in the CG zone, pursuant to TDC 54.200, are permitted.
Eating and Drinking Establishments	N	Central Design District: Take-out restaurant drive-up uses are prohibited.
Retail Sales and Service	C/N	Central Design District: <ul style="list-style-type: none"> • Photo service drive-up uses are prohibited. • Bank drive-up uses and other drive-up uses are permitted as a conditional use.

Section 22. TDC 58.800 (Central Tualatin Overlay Development Standards) and Table 58-7 are amended to read as follows:

TDC 58.800 Central Tualatin Overlay Development Standards.

(1) Development standards in the Central Tualatin Overlay Zone are listed in Table 58-7 by zone and by block. Where no standard is listed, the standards of the base zone apply.

(2) Exceptions. Existing non-conforming situations may be developed according to the provisions of TDC Chapter 35.

**Table 58-7
Development Standards in the Central Tualatin Overlay District**

STANDARD	REQUIREMENT	LIMITATIONS AND CODE REFERENCES
CENTRAL COMMERCIAL (CC)		
Density within the Residential Sub-District	16-25 dwelling units per acre	
Minimum Lot Size within Core Area Parking District	5,000 square feet	For mixed use developments, and

Minimum Lot Size outside Core Area Parking District	25,000 square feet	common-wall multi-family dwellings on separate lots, lot areas, widths and frontages are determined through the Architectural Review Process.
Minimum Lot Width	40 feet	
Minimum Lot Width at the Street	40 feet	
Minimum Lot Width at the Street on a Cul-De-Sac Street	35 feet	
GENERAL COMMERCIAL (CG)		
Minimum Lot Size	25,000 square feet	—
Minimum Lot Width	100 feet	—
Minimum Lot Width at the Street	40 feet	—
Minimum Lot Width at the Street on a Cul-De-Sac Street	40 feet	—
COMMERCIAL OFFICE (CO)		
Density	16-25 dwelling unit per acre	
Minimum Lot Size	25,000 square feet	Lot sizes for townhouses must conform to the lot size standards of the RH District.
LIGHT MANUFACTURING (ML)		
Minimum Lot Size, Block 28	20,000 square feet	—
Minimum Lot Size, Block 29	25,000 square feet	—
GENERAL MANUFACTURING (MG)		
Minimum Lot Size, Block 24	25,000 square feet	
RESIDENTIAL HIGH DENSITY (RH)		
Density	16—25 dwelling units per acre	

Minimum Lot Size, Block 25	40,000 square feet	When permitted uses are mixed with the uses permitted in the CC zone, lot sizes are determined through the Architectural Review Process.
Minimum Setbacks, Block 25	—	When permitted uses are mixed with the uses permitted in the CC zone, setbacks are determined through the Architectural Review Process.
Maximum Structure Height	45 feet	When permitted uses are mixed with the uses permitted in the CC zone.
RESIDENTIAL HIGH DENSITY HIGH RISE (RH/HR)		
Density	26-30 dwelling units per acre	
Minimum Lot Size, Blocks 31 and 33	40,000 square feet	—
Minimum Lot Size, Block 26	25,000 square feet	—

Section 23. TDC 73A.110 (Single-Family Design Standards Applicability; Exceptions) is amended to read as follows:

TDC 73A.100. - ~~Single-Family~~ Residential Design Standards Applicability; Exceptions.

(1) *Applicability.* The ~~single-family~~ Residential Design Standards apply to:

(a) New single-family dwelling;

(b) Duplex; Triplex, or Quadplex;

(c) Townhouses;

~~(b)-(d)~~ (d) An addition or alteration to an existing single-family dwelling, duplex, triplex, quadplex, or townhouse ~~an existing single-family dwelling~~ when it results in:

(i) A 35 percent or more expansion of the structure's existing footprint.

(ii) An increase in building height of 35 percent or more.~~A new second or higher story; or~~

(iii) A 35 percent or more alteration of an existing wall plane. ~~For purposes of this section wall plane means all vertical surfaces on one side of a dwelling from the base of the main floor level up including walls, garage doors, entries, gable ends, dormers, etc., and excluding any roof areas.~~

(e) The creation of a new dwelling unit or units through conversion of an existing residential structure, resulting in a duplex, triplex, or quadplex.

(2) *Exceptions.*

(a) ~~The single-family Residential Design Standards in subsection (1) do not apply to a side wall plane that abuts the side yard of an adjacent dwelling.~~

(b) Facades adjacent to a street are exempt from meeting the standards in TDC 73A.110. (1) and (2).

Section 24. 73A.110 (Clear and Objective (Type I) Single Family Design Standards) is amended to read as follows:

TDC 73A.110. - Clear and Objective Residential (Type I) ~~Single Family Design Standards.~~

~~Single-Family~~ uses Residential housing types using the Clear and Objective (Type I) standards must comply with the following:

(1) *Front Face.* The front face of a ~~single-family dwelling~~ residential structure must contain:

(a) Windows that occupy at least 12 percent of the wall plane.

(i) This requirement may be reduced to ten percent if one additional Residential Wall Design Element is provided beyond the minimum.

(ii) This requirement may be reduced to eight percent if two or more additional Residential Wall Design Elements are provided beyond the minimum.

(iii) Garage door windows may be counted toward the window coverage percentage.

(b) At least three Residential Roof Design Elements; and

(c) At least five of the Residential Wall Design Elements.

(2) *Rear*. The rear of a ~~single-family dwelling~~ residential structure must contain:

(a) Windows that occupy at least 12 percent of the wall plane.

(i) This requirement may be reduced to ten percent if one or more additional Residential Wall Design Element is provided beyond the minimum.

(ii) Garage door windows may be counted toward the window coverage percentage.

(b) At least two Residential Roof Design Elements; and

(c) At least four Residential Wall Design Elements

(3) *Side-Corner Lot*. If the side of a ~~single-family dwellings~~ residential structure abuts a public street, the side must contain:

(a) Windows that occupy at least eight percent of the wall plane;

(i) This requirement may be reduced to six percent of the wall plane if one or more additional Residential Wall Design Elements are provided on the same side elevation.

(ii) Garage door windows may be counted toward the window coverage percentage.

(b) At least two Residential Roof Design Elements; and

(c) At least four Residential Wall Design Elements.

Section 25. TDC 73A.120 (Single-Family Residential Roof Design Elements) is amended to read as follows:

TDC 73A.120. - Type I Residential ~~Single-Family Residential~~ Roof Design Elements.

The following are the Type I Residential ~~single-family residential~~ roof design elements:

(1) Dormer, such as hipped, gabled, shed, or eyebrow dormer design, which is a projecting structure built out from a sloping roof and housing a window, vent, or decorative element;

- (2) Pitched or sloping roof, such as a gable roof, which slopes downward in two parts from a central ridge forming a gable at each end, or hip roof, which has sloping ends and sides that meet at an inclined projecting angle;
- (3) Roof eave of at least 12 inches;
- (4) Roof overhang (barge-board or verge board) of at least six inches measured outward from the face of the dwelling wall or wall plane;
- (5) Window, decorative vent, door, decorated verge boards, trusses, false beams, corbels, brackets, or other decorative element(s) in gable ends; and
- (6) Variation in roof pitch, height of roof planes, or roof orientation, such as in a roof with multi-level eaves.

Section 26. TDC 73A.120 (Single-Family Residential Wall Design Elements) is amended to read as follows:

TDC 73A.130. - Type I Residential ~~Single-Family Residential~~ Wall Design Elements.

The following are the Type I Residential ~~single-family residential~~ wall design elements:

- (1) Recessed entry—Front facade only;
- (2) Portico—Front facade only. A roofed porch-like space, open along at least one side, connected to the main dwelling entrance, supported by columns or pillars, and either protruding from or recessed within the main dwelling structure;
- (3) Covered porch at least 36 square feet in area and at least four feet deep;
- (4) Balcony, which development from the wall plane and is enclosed by a railing or parapet (low protective wall);
- (5) Vertical offsets, at least two, either projecting or recessed, and at least six inches deep and a minimum of four feet long;
- (6) Horizontal offset, either projecting or recessed, at least five inches deep;
- (7) Bay window, box window, or box bay, which development at least six inches outward from the wall plane and forms a bay, alcove, or window seat;
- (8) Column or pilaster, either complete or engaged (where one part of its surface is in contact with a wall plane), and in the wall plane, at a change in wall plane, or at a corner of the dwelling;

- (9) Exterior chimney of brick, stone, composite masonry or similar materials;
- (10) Engaged tower, either square, rectangular, circular or polygonal in form;
- (11) Window trim or surround (casing) at least three and one-half inches wide that completely surrounds the window, either with or without a sill beneath the window;
- (12) Window grids, windows with multi-paned sashes, or elliptical, palladian, segmental arch, semicircular, or similarly shaped windows;
- (13) Lintel, arch, or similar decorative header casing on windows, the main entry door, portico, garage door(s), or other opening in the wall plane;
- (14) Shutters, as a matched pair for or on a window, either movable or fixed, designed to cover a window and filter light, and usually of wood or similar construction and paneled or fitted with louvers;
- (15) Variation in wall cladding, wall-surface pattern, or decorative materials such as shakes, shingles, brick, stone or other similar;
- (16) Decorative or "architectural" garage door(s), with or without windows, and including patterning relief at least five-eighths inches deep over the door(s) surface, excepting the window area if windows are present;
- (17) Decorative trellis or trellis-work, consisting of open rafter ends or beams and cross pieces to create the appearance of a structure over which climbing plants might be trained to grow; and
- (18) Band, band course, band molding, belly band, belt course, or similar horizontal element of relatively slight projection marking a division in the wall plane and adding architectural interest to a facade or elevation.

Section 27. TDC 73A.120 (Discretionary (Type II) Single Family Design Standards.) is amended to read as follows:

TDC 73A.140. - Discretionary (Type II) Single Family Residential Development Design Standards.

~~Single Family uses using Type II discretionary standards, and not using the clear and objective standards, must demonstrate compliance the following discretionary standards: As an alternative to the clear and objective Type I standards, residential housing (including detached single-family dwellings, duplexes, triplexes, quadplexes, and townhomes), may be reviewed under Type II discretionary standards. Such applications must demonstrate compliance with the following discretionary standards:~~

- (1) All roofs must be pitched or sloping and articulated by use of such elements as dormers, gables, overhangs or eaves, and must have variations in roof pitch, height of roof planes, or roof orientation to create visual interest and avoid monotony in appearance;
- (2) Architectural articulation and other design elements, such as balconies, porches, dormers, bay windows, vertical or horizontal offsets, variations in cladding, or moldings must be used on all sides of the dwelling (except for the side of a dwelling adjacent to another dwelling) to avoid stark unarticulated building facades (elevations), to minimize the scale and visual impact of a continuous flat wall surface, and to create a sense of visual interest for passersby and neighboring property owners;
- (3) The architectural character (i.e., exterior materials, architectural articulation, design elements, etc.) of the front facade (elevation) of the dwelling must be utilized on all sides of the structure to create a unified appearance and to avoid a single block or box appearance;
- (4) New dwellings must be designed and situated on a property in order to create and maintain a visual sense of harmony with surrounding development and must not overwhelm the scale of surrounding development; and
- (5) The overall architectural design of the dwelling must foster a compatible, positive relationship with the scale and character of the street, and the scale and character of surrounding existing development.

Section 28. TDC 73A.150 (Clear and Objective (Type I) Cottage Cluster Design Standards) is created to read as follows:

TDC 73A.150. – Clear and Objective (Type I) Cottage Cluster Design Standards.

(1) Applicability. The Cottage Cluster Design Standards apply to:

(a) New cottage cluster developments as defined in TDC 31.060.

(b) An addition or alteration in one or more structures within a developed cottage cluster when it results in:

(i) A 35% or more expansion of a structure's existing footprint, or an expansion of multiple cottage or community building footprints;

(ii) An increase in building height of 35% or more; or

(iii) A 35 percent or more alteration of an existing wall plane.

(2) Cottage Standards. Cottage Cluster developments using the Clear and Objective (Type I) standards must comply with the following:

(a) Unit Size. The maximum footprint for a cottage is 899 square feet. The maximum average floor area for a cottage cluster is 1,400 square feet per dwelling unit. Community buildings must be included in the average floor area calculation for a cottage cluster.

(b) Cottage Orientation. Cottages must be clustered around a common courtyard and must meet the following standards (see Figure 1):

(i) Each cottage within a cluster must either abut the common courtyard or be directly connect to the common courtyard by a pedestrian path.

(ii) A minimum of 50 percent of cottages within a cluster must:

(A) Have a main entrance facing the common courtyard;

(B) Be within 10 feet from the common courtyard, measured from the facade of the cottage to the nearest edge of the common courtyard; and

(C) Be connected to the common courtyard by a pedestrian path.

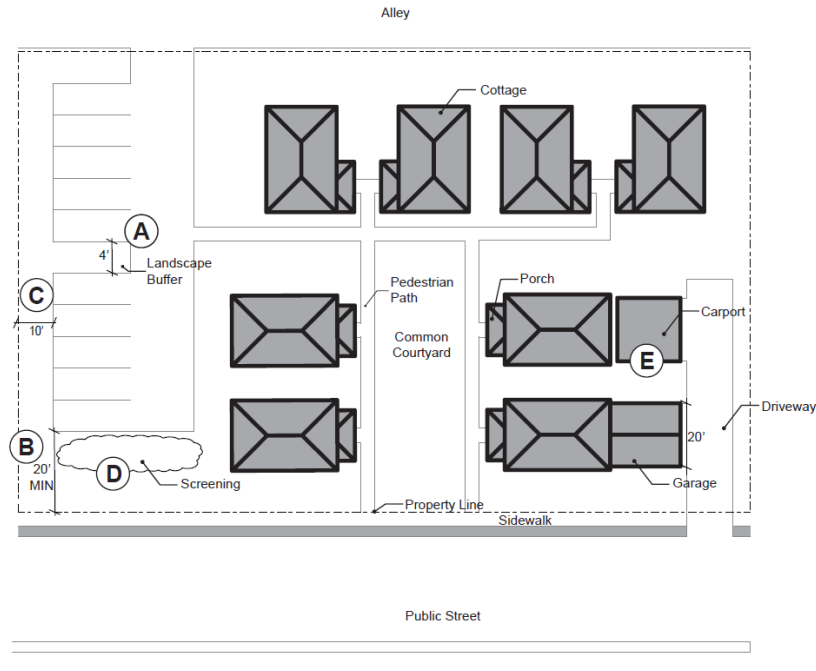
(iii) Cottages within 20 feet of a street property line may have their entrances facing the street.

(iv) Cottages not facing the common courtyard or the street must have their main entrances facing a pedestrian path that is directly connected to the common courtyard.

(3) Common Courtyard Design Standards. Each cottage cluster must share a common courtyard that must meet the following standards (see Figure 1):

- (a) The common courtyard must be a single, contiguous piece of land.
- (b) Cottages must abut the common courtyard on at least two sides of the courtyard.
- (c) The common courtyard must contain a minimum of 150 square feet for each cottage constructed within the associated cottage cluster.
- (d) The common courtyard must be a minimum of 15 feet wide at its narrowest dimension.
- (e) The common courtyard must be developed with a mix of landscaping, lawn area, pedestrian paths, and/or paved courtyard area, and may also include recreational amenities.
- (f) Impervious elements of the common courtyard must not exceed 75 percent of the total common courtyard area.
- (g) Pedestrian paths must be included in a common courtyard. Paths that are contiguous to a courtyard count toward the courtyard's minimum dimension and area. Parking areas and driveways do not qualify as part of a common courtyard.

Figure 1. Cottage Cluster Orientation and Common Courtyard Standards



- (A)** Parking allowed in clusters of up to 5 spaces. Clusters separated by minimum 4 feet of landscaping.
- (B)** No parking or vehicle area within 20 feet from street property line (except alley).
- (C)** No parking within 10 feet from other property lines (except alley). Driveways and drive aisles permitted within 10 feet.
- (D)** Screening required between clustered parking areas or parking structures and public streets or common courtyards.
- (E)** Garages and carports must not abut common courtyards. Garage doors for individual garages must not exceed 20 feet in width.

(4) Community Buildings. Cottage cluster projects may include community buildings for the shared use of residents that provide space for accessory uses such as community meeting rooms, guest housing, exercise rooms, day care, or community eating areas. Community buildings must meet the following standards:

(a) Each cottage cluster is permitted one community building, which counts toward the maximum average floor area of 1,400 square feet per dwelling unit.

(b) A community building that meets the development code's definition of a dwelling unit must meet the cottage standards, unless a covenant is recorded against the property stating that the structure is not a legal dwelling unit and will not be used as a primary dwelling.

(5) Pedestrian Access.

(a) An accessible pedestrian path must be provided that connects the main entrance of each cottage to the following:

(i) The common courtyard;

(ii) Shared parking areas;

(iii) Community buildings; and

(iv) Sidewalks in public rights-of-way abutting the site or rights-of-way if there are no sidewalks.

(b) The pedestrian path must be hard-surfaced and a minimum of four (4) feet wide.

(6) Windows. Cottages within 20 feet of a street property line must have windows that occupy at least 12% of the wall plane.

(7) Parking Design (see Figure 2).

(a) Clustered parking. Off-street parking may be arranged in clusters, subject to the following standards:

(i) Cottage cluster projects with fewer than 16 cottages are permitted parking clusters of not more than five (5) contiguous spaces.

(ii) Cottage cluster projects with 16 cottages or more are permitted parking clusters of not more than eight (8) contiguous spaces.

(iii) Parking clusters must be separated from other spaces by at least four (4) feet of landscaping.

(iv) Clustered parking areas may be covered.

(b) Parking location and access.

(i) Off-street parking spaces and vehicle maneuvering areas must not be located:

(A) Within 10 feet from any street property line, except alley property lines.

(B) Between a street property line and the front facade of cottages located closest to the street property line. This standard does not apply to alleys.

(ii) Off-street parking spaces must not be located within 10 feet of any other property line, except alley property lines. Driveways and drive aisles are permitted within 10 feet of other property lines.

(c) Screening. Landscaping, fencing, or walls at least three feet tall must separate clustered parking areas and parking structures from common courtyards and public streets.

(d) Garages and carports.

(i) Garages and carports (whether shared or individual) must not abut more than 25% of the rear or side perimeters of a common courtyard.

(ii) Individual attached garages of up to 200 square feet are exempt from the calculation of the maximum building footprint for cottages.

(iii) Individual detached garages must not exceed 400 square feet in floor area.

(iv) Garage doors for attached and detached individual garages must not exceed 20 feet in width.

(8) Accessory Structures. Accessory structures must not exceed 400 square feet in floor area.

(9) Existing Structures. On a lot or parcel to be used for a cottage cluster project, an existing detached single family dwelling on the same lot at the time of proposed development of the cottage cluster may remain within the cottage cluster project area under the following provisions:

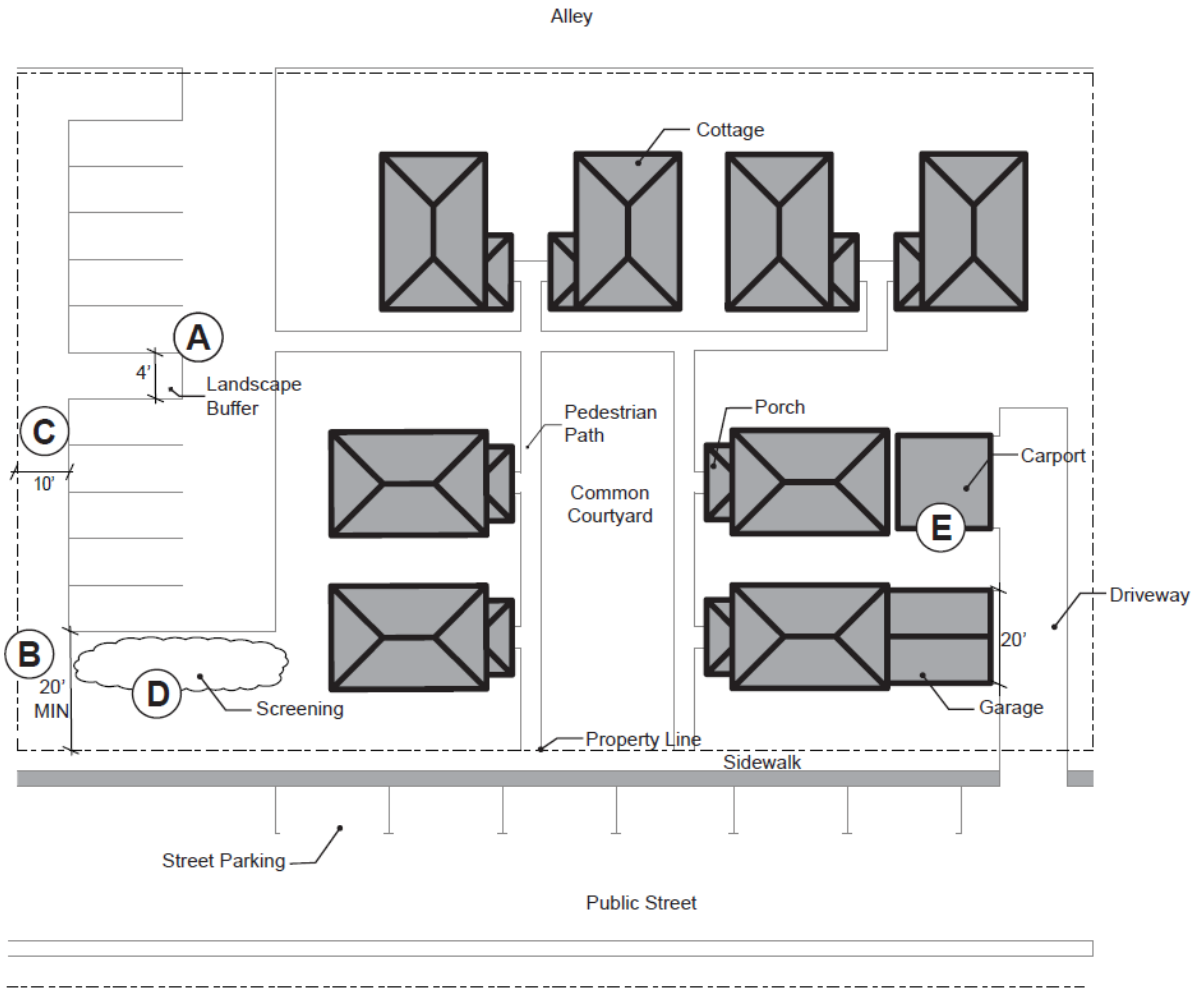
(a) The existing dwelling may be nonconforming with respect to the requirements of this code.

(b) The existing dwelling may be expanded up to the maximum height permitted in the base zone.

(c) The floor area of the existing dwelling does not count towards the maximum average floor area of a cottage cluster.

(d) The existing dwelling may optionally be excluded from the count of cottages that must be oriented to the common courtyard under TDC 73A.200(1)(b).

Figure 2. Cottage Cluster Parking Design Standards



- (A)** Parking allowed in clusters of up to 5 spaces. Clusters separated by minimum 4 feet of landscaping.
- (B)** No parking or vehicle area within 20 feet from street property line (except alley).
- (C)** No parking within 10 feet from other property lines (except alley). Driveways and drive aisles permitted within 10 feet.
- (D)** Screening required between clustered parking areas or parking structures and public streets or common courtyards.
- (E)** Garages and carports must not abut common courtyards. Garage doors for individual garages must not exceed 20 feet in width.

Section 29. TDC 73A.150 (Discretionary (Type II) Cottage Cluster Design Standards) is created to read as follows:

TDC 73A.160. - Discretionary (Type II) Cottage Cluster Design Standards.

Cottage Cluster uses using Type II discretionary standards, and not using the clear and objective standards, must demonstrate compliance by following the discretionary standards:

(1) Special attention should be given to designing the primary building entrance that is both attractive and functional. Primary entrances should incorporate changes in mass surface, or finish to emphasize the entrance.

(2) Architectural articulation and other design elements, such as balconies, porches, dormers, bay windows, vertical or horizontal offsets, variations in cladding, or moldings must be used on at least one street-facing side of the dwelling (except for the side of a dwelling adjacent to another dwelling) to avoid stark unarticulated building facades (elevations), to minimize the scale and visual impact of a continuous flat wall surface, and to create a sense of visual interest for passersby and neighboring property owners.

(3) Windows and primary entrances should be oriented to encourage “eyes on the street” within the cluster to encourage a sense of safety and communal responsibility of common spaces.

(4) Building elevations facing streets should include ample levels of window glazing to ensure articulation on the facade, daylighting of interior spaces, and visibility.

(5) Driveway approaches and access must be consistent with Chapter 75 or approved by the City Engineer to ensure there are no impediments or obstruction to oncoming traffic or pedestrian pathways and connections.

(6) Parking bays should be designed with a direct pedestrian pathway to the front entrances and be lit with pedestrian scaled lighting features.

Section 30. TDC 34.600 is renumbered TDC 73A.170 and amended to read as follows:

TDC 73A.160. – Accessory Dwelling Unit Design Standards.

(1) The purpose of accessory dwelling units, as defined in TDC 31.060, is to increase the variety and availability of housing with the goal of increasing housing affordability.

(2) Accessory Dwelling Units are allowed on lots or parcels with one or more primary dwelling units and must comply with the following standards:

(a) An accessory dwelling unit is allowed in the RL and RML Zones.

;-and

~~(ii) In the RML Planning District if part of a Small Lot Subdivision as specified under TDC 36.410;41.020(13);~~

(b) There must be no more than one accessory dwelling unit per lot or parcel;

(c) An accessory dwelling unit must not exceed 800 square feet of gross floor area;

~~(d) A garage, or a former garage, may be converted to an accessory dwelling unit;~~

~~(e) In addition to the parking spaces required in TDC 73C for the detached single-family dwelling, one paved on-site parking space must be provided for the accessory dwelling unit and the space must not be within five feet of a side or rear property line;~~

~~(f) The accessory dwelling unit's front door must not be located on the same street frontage as the detached single family dwelling's front door unless the door for the accessory dwelling unit already exists;~~

~~(g) The accessory dwelling unit must not be sold separate from the single family dwelling or as a condominium;~~

~~(h)~~(d) The accessory dwelling unit must be served by the same water meter, electric meter, and natural gas meter as the primary dwelling, except if prohibited by State building code requirements;

~~(i) The accessory dwelling unit must be served by the same electric meter as the single family dwelling, unless other applicable requirements, such as building codes, prohibit it;~~

~~(j) The accessory dwelling unit must be served by the same natural gas meter as the single family dwelling, unless other applicable requirements, such as building codes, prohibit it;~~

~~(k) An attached accessory dwelling unit must be connected to the single family dwelling by an internal doorway;~~

~~(l) If the gross floor area of the existing single family dwelling is to be enlarged when an accessory dwelling unit is created, the proposed enlargement must not increase the gross floor area of the single family dwelling more than ten percent;~~

~~(m)~~(e) An accessory dwelling unit must provide at least two Residential Roof Design Elements in TDC 73A.120 (Site Design), and at least four Residential Wall Design Elements in TDC 73A.130 (Site Design); and

(f) An accessory dwelling unit must be set back at least one foot from a line parallel to the main entrance of the primary dwelling.

Section 31. TDC 73A.200 (TDC 73A.200. - Common Wall Design Standards) is amended to read as follows:

TDC 73A.200. – ~~Common Wall~~ Multi-Family Design Standards.

The following standards are the minimum standards for all other residential development in all zones that does not meet the definition of single-family dwelling, duplex, townhouse, triplex, quadplex, or cottage cluster or is 5 or more dwelling units. ~~The following standards are minimum standard for all duplex, townhouse, and multi-family developments in all zones.~~ These standards do not apply to development in the Central Design District and Mixed Use Commercial (MUC) zone, which have separate standards and may be less than the minimums provided below.

(1) *Private Outdoor Areas.* ~~Common wall~~ Multi-family uses must provide private outdoor area features as follows:

(a) A separate outdoor area of not less than 80 square feet must be attached to each ground level dwelling unit; and

(b) The private outdoor area must be separated from common outdoor areas within a manner that enables the resident to control access from common areas with elements, such as walls, fences or shrubs.

(2) *Balconies, Terraces, and Loggias.* ~~Common wall~~ Multi-family uses must provide balconies, terraces, and loggias features as follows:

(a) A separate outdoor area of not less than 48 square feet in the form of balconies, terraces, or loggias must be provided for each unit located above the ground level; ~~and~~

~~(b) The balconies, terraces, and loggias standard does not apply to duplexes and townhouses.~~

(3) *Entry Areas.* ~~Common wall~~ Multi-family uses must provide entry area features as follows:

(a) A private main entry area must be provided as a private extension of each dwelling unit;

(b) The entry area must be separated from on-site parking areas and public streets with landscaping, change of grade, low fences, or walls or other means that enable the resident to supervise and control access and to retain privacy;

(c) The entry area must be a minimum of 24 square feet in area for each dwelling unit; and

(d) The entry area may be combined to serve more than one unit as determined by the City; ~~and~~

~~(e) The entry area standard does not apply to duplexes and townhouses.~~

(4) *Shared Outdoor Areas.* ~~Common wall~~ Multi-family uses must provide shared outdoor area features as follows:

(a) Must provide year round shared outdoor areas for both active and passive recreation;

(b) The shared outdoor area must be a minimum of:

(i) Three hundred square feet per dwelling unit; or

(ii) Four hundred fifty square feet per dwelling unit for 55 and older communities.

(c) Gazebos and other covered spaces are encouraged to satisfy this requirement;

~~(d) The shared outdoor area must provide approximately the same accessibility to the maximum number of dwelling units possible;~~

~~(e) The shared outdoor area must allow residents to watch over these areas from windows in at least two adjacent dwelling units;~~

~~(d)(f)~~ The shared outdoor area must be separated from all entryway and parking areas with a landscaped transition area measuring a minimum of ten feet wide;

~~(e)(g)~~ The shared outdoor area must have controlled access from off-site as well as from on-site parking and entrance areas with a minimum 4-foot high fence, wall, or landscaping features such as fencing, walls and landscaping; and

~~(h) The shared outdoor area must provide both sunny and shady spots;~~

~~(i) The shared outdoor area must provide a usable floor surface (material such as lawn, decks, wood chips, sand and hard surface materials qualify); and~~

~~(f)(j)~~ The shared outdoor area ~~must~~ standard does not apply to:

(i) Duplexes and townhouses; and

(ii) any development with less than 12 dwelling units.

(5) *Children's Play Areas.* ~~Common-wall~~ Multi-family uses must provide children's play area features as follows:

~~(a) The children's play area must provide year round shared outdoor areas for both active and passive recreation;~~

~~(a)(b)~~ The children's play area must be a minimum of 150 square feet per dwelling unit;

~~(c) The children's play area must provide approximately the same accessibility to the maximum number of dwelling units possible;~~

~~(d) The children's play area must allow residents to watch over these areas from windows in at least two adjacent dwelling units;~~

~~(b)(e)~~ The children's play area must provide a separation from all entryway and parking areas with a landscaped transition area measuring a minimum of ten feet wide;

~~(c)(f)~~ The children's play area must have controlled access to shared outdoor areas from off-site as well as from on-site parking and entrance areas with a minimum 4-foot high fence, wall, or landscaping ~~features such as fencing, walls and landscaping; and~~

~~(g) The children's play area must provide both sunny and shady spots; and~~

~~(d)(h)~~ The children's play area must provide a usable floor surface (material such as lawn, decks, wood chips, sand and hard surface materials qualify); and

~~(e)(i)~~ The children's play area standard does not apply to:

(i) Duplexes and townhouses;

(ii) Fifty-five and older communities; and

(iii) Any development with less than 12 dwelling units.

(6) *Storage.* ~~Common-wall~~ Multi-family uses must provide storage features as follows:

(a) Enclosed storage areas are required for each unit ~~and must be attached to the exterior of each dwelling unit to accommodate garden equipment, patio furniture, barbecues, bicycles, etc.~~

(i) Garages do not satisfy the storage requirements. An enclosed storage area may be located within the garage of the individual unit. Enclosed storage areas may also be located within commonly accessible shared garage.

(b) Each storage area must be a minimum of six feet in height and have a minimum floor area of:

(i) 24 square feet for studio and one bedroom units;

(ii) 36 square feet for two bedroom units; and

(iii) 48 square feet for greater than two bedroom units.

(7) *Walkways.* ~~Common wall~~ Multi-family uses must provide walkways as follows:

(a) Walkways for duplexes and townhouses must be a minimum of three feet in width;

(b) All other multi-family development must have walkways of a minimum of six feet in width;

(c) Walkways must be constructed of asphalt, concrete, pervious concrete, ~~or a pervious surface such as pavers,~~ or grasscrete. Gravel or bark chips are not acceptable. ~~(not gravel or woody material);~~ and

(d) The walkways must meet ADA standards applicable at time of construction or alteration.

(8) *Accessways.*

(a) *When Required.* Accessways are required to be constructed when a ~~common wall~~ multi-family development is adjacent to any of the following:

(i) Residential property;

(ii) Commercial property;

(iii) Areas intended for public use, such as schools and parks; and

(iv) Collector or arterial streets where transit stops or bike lanes are provided or designated.

(b) *Design Standard.* Accessways must meet the following design standards:

(i) Accessways must be a minimum of eight feet in width;

(ii) Public accessways must be constructed in accordance with the Public Works Construction Code;

(iii) Private accessways must be constructed of asphalt, concrete, ~~or a pervious surface such as pavers or grasscrete.~~ Gravel or bark chips are not acceptable;

(iv) Accessways must meet ADA standards applicable at time of construction or alteration;

(v) Accessways must be provided as a connection between the development's walkway and bikeway circulation system;

(vi) Accessways must not be gated to prevent pedestrian or bike access;

(vii) Outdoor Recreation Access Routes must be provided between the development's walkway and bikeway circulation system and parks, bikeways, and greenways where a bike or pedestrian path is designated; and

(viii) Must be constructed, owned and maintained by the property owner.

(c) *Exceptions.* The Accessway standard does not apply to the following:

(i) Where a bridge or culvert would be necessary to span a designated greenway or wetland to provide a connection, the City may limit the number and location of accessways to reduce the impact on the greenway or wetland; and

(ii) Accessways to undeveloped parcels or undeveloped transit facilities need not be constructed at the time the subject property is developed. In such cases the applicant for development must enter into a written agreement with the City guaranteeing future performance by the applicant and any successors in interest of the property being developed to construct an accessway when the adjacent undeveloped parcel is developed. The agreement recorded is subject to the City's review and approval.

(9) *Carports and Garages.* ~~Common wall~~ Multi-family uses must provide Carports and Garage features as follows:

~~(a) At least one garage space must be provided for each duplex or townhouse. The form, materials, color, and construction must be compatible with the unit served; and~~

~~(a)(b)~~ If carports or garages are provided for multi-family development, the The form, materials, color, and construction must be compatible with the complex they serve.

(10) *Safety and Security.* ~~Common-wall~~ Multi-family units must provide safety and security features as follows:

(a) Private outdoor areas must be separated from shared outdoor areas and children's play areas with a minimum 4-foot high fence, wall, or landscaping elements such as walls, buildings, landscaping, and changes in grade in a manner which enables residents to utilize these areas as an extension of their units;

~~(b)~~ Windows must be located to encourage watching over entry areas, shared outdoor areas, walkways and parking areas;

~~(b)(c)~~ An outdoor lighting system that does not produce direct glare on adjacent properties and must be provided which facilitates police observation and resident observation through strategic location, orientation and brightness without shining into residential units, public rights-of-way, or fish and wildlife habitat areas; and

~~(c)(d)~~ Building identification must be provided consistent with the Oregon Fire Code. An identification system must be established which clearly orients visitors and emergency services as to the location of residential units. Where possible, this system must be evident from the primary vehicle entryway; and

~~(e)~~ The safety and security standard does not apply to duplexes and townhouses.

(11) *Service, Delivery and Screening.* ~~Common-wall~~ Multi-family uses must provide service, delivery, and screening features as follows:

(a) Provisions for postal delivery must be made consistent with US Postal Service regulations conveniently located and efficiently designed for residents and mail delivery personnel;

(b) Safe Ppedestrian access from unit entries to postal delivery areas, shared activity areas, and parking areas must be provided via accessways; and Elements include, but not limited to:

(i) ~~Concrete paths;~~

(ii) ~~Raised walkways; and~~

(iii) ~~Bark chip trails~~

(c) Above grade and on-grade electrical and mechanical equipment such as transformers, heat pumps and air conditioners must be screened with sight obscuring fences, walls or landscaping.

Section 32. TDC 73A.300 (Commercial Design Standards) is amended to read as follows:

TDC 73A.300. - Commercial Design Standards.

The following standards are minimum requirements for commercial development in all zones, except the Mixed-Use Commercial (MCU) zone, which has its own standards:

(1) *Walkways.* Commercial development must provide walkways as follows:

(a) Walkways must be a minimum of six feet in width;

(b) Walkways must be constructed of asphalt, concrete, pervious concrete, ~~or a pervious surface such as pavers,~~ or grasscrete. Gravel or bark chips are not acceptable. ~~(not gravel or woody material);~~

(c) Walkways must meet ADA standards applicable at time of construction or alteration;

(d) Walkways must be provided between the main building entrances and other on-site buildings, accessways, and sidewalks along the public right-of-way;

(e) Walkways through parking areas, drive aisles, and loading areas must be visibly raised and of a different appearance than the adjacent paved vehicular areas;

(f) Bikeways must be provided that link building entrances and bike facilities on the site with adjoining public right-of-way and accessways; and

(g) Outdoor Recreation Access Routes must be provided between the development's walkway and bikeway circulation system and parks, bikeways and greenways where a bike or pedestrian path is designated.

(2) *Accessways.*

(a) *When Required.* Accessways are required to be constructed when a ~~common wall~~ multi-family development is adjacent to any of the following:

(i) Residential property;

(ii) Commercial property;

(iii) Areas intended for public use, such as schools and parks; and

(iv) Collector or arterial streets where transit stops or bike lanes are provided or designated.

(b) *Design Standard.* Accessways must meet the following design standards:

(i) Accessways must be a minimum of eight feet in width;

(ii) Public accessways must be constructed in accordance with the Public Works Construction Code;

(iii) Private accessways must be constructed of asphalt, concrete or a pervious surface such as pervious asphalt or concrete, pavers or grasscrete, but not gravel or woody material;

(iv) Accessways must meet ADA standards applicable at time of construction or alteration;

(v) Accessways must be provided as a connection between the development's walkway and bikeway circulation system;

(vi) Accessways must not be gated to prevent pedestrian or bike access;

(vii) Outdoor Recreation Access Routes must be provided between the development's walkway and bikeway circulation system and parks, bikeways, and greenways where a bike or pedestrian path is designated; and

(viii) Must be constructed, owned and maintained by the property owner.

(c) *Exceptions.* The Accessway standard does not apply to the following:

(i) Where a bridge or culvert would be necessary to span a designated greenway or wetland to provide a connection, the City may limit the number and location of accessways to reduce the impact on the greenway or wetland; and

(ii) Accessways to undeveloped parcels or undeveloped transit facilities need not be constructed at the time the subject property is developed. In such cases the applicant for development must enter into a written agreement with the City guaranteeing future performance by the applicant and any successors in interest of the property being developed to construct an accessway when the

adjacent undeveloped parcel is developed. The agreement recorded is subject to the City's review and approval.

(3) *Drive-up Uses.* Drive-up uses must comply with the following:

(a) Provide a minimum stacking area clear of the public right-of-way and parking lot aisles from the window serving the vehicles as follows:

(i) Banks—Each lane must be 100 feet long;

(ii) Restaurants—Each lane must be 160 feet long; and

(iii) Other uses—Each lane must be between 80 and 160 feet long, as determined by the City.

(b) Stacking area must not interfere with safe and efficient access to other parking areas on the property.

(c) Drive-up aisles and windows must be a minimum of 50 feet from residential zones.

(d) The width and turning radius of drive-up aisles must be approved by the City.

(e) A wall or other visual or acoustic may be required by the City.

(4) *Safety and Security.* Commercial development must provide safety and security features as follows:

(a) Locate windows and provide lighting in a manner that enables tenants, employees, and police to watch over pedestrian, parking, and loading areas;

(b) Locate windows and interior lighting to enable surveillance of interior activity from the public right-of-way;

(c) Locate, orient, and select exterior lighting to facilitate surveillance of on-site activities from the public right-of-way without shining into public rights-of-way or fish and wildlife habitat areas;

(d) Provide an identification system which clearly locates buildings and their entries for patrons and emergency services; and

(e) Above ground sewer or water pumping stations, pressure reading stations, water reservoirs, electrical substations, and above ground natural gas pumping stations must provide a minimum six foot tall security fence or wall.

(5) *Service, Delivery, and Screening.* Commercial development must provide service, delivery, and screening features as follows:

(a) Above grade and on-grade electrical and mechanical equipment such as transformers, heat pumps and air conditioners must be screened with sight obscuring fences, walls or landscaping;

(b) Outdoor storage must be screened with a sight obscuring fence, wall, berm or dense evergreen landscaping; and

(c) Above ground pumping stations, pressure reading stations, water reservoirs; electrical substations, and above ground natural gas pumping stations must be screened with sight-obscuring fences or walls and landscaping.

(6) *Adjacent to Transit.* Commercial development adjacent to transit must comply with the following:

(a) Development on a transit street designated in TDC Chapter 11 (Figure 11-5) must provide either a transit stop pad on-site, or an on-site or public sidewalk connection to a transit stop along the subject property's frontage on the transit street.

(b) Development abutting major transit stops as designated in TDC Chapter 11 (Figure 11-5) must:

(i) Locate any portion of a building within 20 feet of the major transit stop or provide a pedestrian plaza at the transit stop;

(ii) Provide a reasonably direct pedestrian connection between the major transit stop and a building entrance on the site;

(iii) Provide a transit passenger landing pad accessible to disabled persons;

(iv) Provide an easement or dedication for a passenger shelter as determined by the City; and

(v) Provide lighting at the major transit stop.

Section 33. TDC 73A.500 (Industrial Design Standards) is amended to read as follows:

TDC 73A.500. Industrial Design Standards.

The following standards are minimum requirements for industrial development in all zones, except the Mixed-Use Commercial (MUC) zone, which has its own standards:

(1) *Walkways.* Industrial development must provide walkways as follows:

(a) Walkways must be a minimum of five feet in width;

(b) Walkways must be constructed of asphalt, concrete, pervious concrete, or a pervious surface such as pavers, or grasscrete. Gravel or bark chips are not acceptable. (not gravel or woody material);

(c) Walkways must meet ADA standards applicable at time of construction or alteration;

(d) Walkways must be provided between the main building entrances and other on-site buildings, accessways, and sidewalks along the public right-of-way;

(e) Walkways through parking areas, drive aisles, and loading areas must be of a different appearance than the adjacent paved vehicular areas; and

(f) Outdoor Recreation Access Routes must be provided between the development's walkway and bikeway circulation system and parks, bikeways and greenways where a bike or pedestrian path is designated.

(2) *Accessways.*

(a) *When Required.* Accessways are required to be constructed when a ~~common wall~~ multi-family development is adjacent to any of the following:

(i) Residential property;

(ii) Commercial property;

(iii) Areas intended for public use, such as schools and parks; and

(iv) Collector or arterial streets where transit stops or bike lanes are provided or designated.

(b) *Design Standard.* Accessways must meet the following design standards:

(i) Accessways must be a minimum of eight feet in width;

(ii) Public accessways must be constructed in accordance with the Public Works Construction Code;

(iii) Private accessways must be constructed of asphalt, concrete or a pervious surface such as pervious asphalt or concrete, pavers or grasscrete, but not gravel or woody material;

(iv) Accessways must meet ADA standards applicable at time of construction or alteration;

(v) Accessways must be provided as a connection between the development's walkway and bikeway circulation system;

(vi) Accessways may be gated for security purposes;

(vii) Outdoor Recreation Access Routes must be provided between the development's walkway and bikeway circulation system and parks, bikeways, and greenways where a bike or pedestrian path is designated; and

(viii) Must be constructed, owned and maintained by the property owner.

(c) *Exceptions.* The Accessway standard does not apply to the following:

(i) Where a bridge or culvert would be necessary to span a designated greenway or wetland to provide a connection, the City may limit the number and location of accessways to reduce the impact on the greenway or wetland; and

(ii) Accessways to undeveloped parcels or undeveloped transit facilities need not be constructed at the time the subject property is developed. In such cases the applicant for development must enter into a written agreement with the City guaranteeing future performance by the applicant and any successors in interest of the property being developed to construct an accessway when the adjacent undeveloped parcel is developed. The agreement recorded is subject to the City's review and approval.

(3) *Drive-up Uses.* Drive-up uses must comply with the following:

(a) Must provide a minimum stacking area clear of the public right-of-way and parking lot aisles from the window serving the vehicles as follows:

(i) Banks—each lane must be 100 feet long;

(ii) Restaurants—each lane must be 160 feet long; and

(iii) Other uses—each lane must be between 80 and 160 feet long, as determined by the City.

(b) Stacking area must not interfere with safe and efficient access to other parking areas on the property;

(c) Drive-up aisles and windows must be a minimum of 50 feet from residential zones;

(d) The width and turning radius of drive-up aisles must be approved by the City;
and

(e) A wall or other visual or acoustic may be required by the City.

(4) *Safety and Security*. Industrial development must provide safety and security features as follows:

(a) Locate windows and provide lighting in a manner that enables tenants, employees, and police to watch over pedestrian, parking, and loading areas;

(b) Locate windows and interior lighting to enable surveillance of interior activity from the public right-of-way;

(c) Locate, orient, and select exterior lighting to facilitate surveillance of on-site activities from the public right-of-way without shining into public rights-of-way or fish and wildlife habitat areas;

(d) Provide an identification system which clearly locates buildings and their entries for patrons and emergency services; and

(e) Above ground sewer or water pumping stations, pressure reading stations, water reservoirs, electrical substations, and above ground natural gas pumping stations must provide a minimum six foot tall security fence or wall.

(5) *Service, Delivery, and Screening*. Industrial development must provide service, delivery, and screening features as follows:

(a) Above grade and on-grade electrical and mechanical equipment such as transformers, heat pumps and air conditioners must be screened with sight obscuring fences, walls or landscaping;

(b) Outdoor storage must be screened with a sight obscuring fence, wall, berm or dense evergreen landscaping; and

(c) Above ground pumping stations, pressure reading stations, water reservoirs; electrical substations, and above ground natural gas pumping stations must be screened with sight-obscuring fences or walls and landscaping.

(6) *Adjacent to Transit*. Industrial development adjacent to transit must comply with the following:

(a) Development on a transit street designated in TDC Chapter 11 (Figure 11-5) must provide either a transit stop pad on-site, or an on-site or public sidewalk connection to a transit stop along the subject property's frontage on the transit street; and

(b) Development abutting major transit stops as designated in TDC Chapter 11 (Figure 11-5) must:

- (i) Locate any portion of a building within 20 feet of the major transit stop or provide a pedestrian plaza at the transit stop;
- (ii) Provide a reasonably direct pedestrian connection between the major transit stop and a building entrance on the site;
- (iii) Provide a transit passenger landing pad accessible to disabled persons;
- (iv) Provide an easement or dedication for a passenger shelter as determined by the City; and
- (v) Provide lighting at the major transit stop.

Section 34. TDC 73A.600 (Institutional Design Standards) is amended to read as follows:

TDC 73A.600. Institutional Design Standards.

The following standards are minimum requirements for institutional development in all zones:

(1) *Walkways.* Institutional development must provide walkways as follows:

- (a) Walkways must be a minimum of six feet in width;
- (b) Walkways must be constructed of asphalt, concrete, pervious concrete, ~~or a pervious surface such as pavers,~~ or grasscrete. Gravel or bark chips are not acceptable. ~~(not gravel or woody material);~~
- (c) Walkways must meet ADA standards applicable at time of construction or alteration;
- (d) Walkways must be provided between the main building entrances and other on-site buildings, accessways, and sidewalks along the public right-of-way;
- (e) Walkways through parking areas, drive aisles, and loading areas must be visibly raised and of a different appearance than the adjacent paved vehicular areas;
- (f) Bikeways must be provided that link building entrances and bike facilities on the site with adjoining public right-of-way and accessways; and

(g) Outdoor Recreation Access Routes must be provided between the development's walkway and bikeway circulation system and parks, bikeways and greenways where a bike or pedestrian path is designated.

(2) *Accessways.*

(a) *When Required.* Accessways are required to be constructed when a ~~common wall~~ multi-family development is adjacent to any of the following:

- (i) Residential property;
- (ii) Commercial property;
- (iii) Areas intended for public use, such as schools and parks; and
- (iv) Collector or arterial streets where transit stops or bike lanes are provided or designated.

(b) *Design Standard.* Accessways must meet the following design standards:

- (i) Accessways must be a minimum of eight feet in width;
- (ii) Public accessways must be constructed in accordance with the Public Works Construction Code;
- (iii) Private accessways must be constructed of asphalt, concrete or a pervious surface such as pervious asphalt or concrete, pavers or grasscrete, but not gravel or woody material;
- (iv) Accessways must meet ADA standards applicable at time of construction or alteration;
- (v) Accessways must be provided as a connection between the development's walkway and bikeway circulation system;
- (vi) Accessways must not be gated to prevent pedestrian or bike access;
- (vii) Outdoor Recreation Access Routes must be provided between the development's walkway and bikeway circulation system and parks, bikeways, and greenways where a bike or pedestrian path is designated; and
- (viii) Must be constructed, owned and maintained by the property owner.

(c) *Exceptions.* The Accessway standard does not apply to the following:

(i) Where a bridge or culvert would be necessary to span a designated greenway or wetland to provide a connection, the City may limit the number and location of accessways to reduce the impact on the greenway or wetland; and

(ii) Accessways to undeveloped parcels or undeveloped transit facilities need not be constructed at the time the subject property is developed. In such cases the applicant for development must enter into a written agreement with the City guaranteeing future performance by the applicant and any successors in interest of the property being developed to construct an accessway when the adjacent undeveloped parcel is developed. The agreement recorded is subject to the City's review and approval.

(3) *Safety and Security.* Institutional development must provide safety and security features as follows:

(a) Locate windows and provide lighting in a manner that enables tenants, employees, and police to watch over pedestrian, parking, and loading areas;

(b) Locate windows and interior lighting to enable surveillance of interior activity from the public right-of-way;

(c) Locate, orient, and select exterior lighting to facilitate surveillance of on-site activities from the public right-of-way without shining into public rights-of-way or fish and wildlife habitat areas;

(d) Provide an identification system which clearly locates buildings and their entries for patrons and emergency services; and

(e) Above ground sewer or water pumping stations, pressure reading stations, water reservoirs, electrical substations, and above ground natural gas pumping stations must provide a minimum six foot tall security fence or wall.

(4) *Service, Delivery, and Screening.* Institutional development must provide service, delivery, and screening features as follows:

(a) Above grade and on-grade electrical and mechanical equipment such as transformers, heat pumps and air conditioners must be screened with sight obscuring fences, walls or landscaping;

(b) Outdoor storage must be screened with a sight obscuring fence, wall, berm or dense evergreen landscaping; and

(c) Above ground pumping stations, pressure reading stations, water reservoirs; electrical substations, and above ground natural gas pumping stations must be screened with sight-obscuring fences or walls and landscaping.

(5) *Adjacent to Transit.* Institutional development adjacent to transit must comply with the following:

(a) Development on a transit street designated in TDC Chapter 11 (Figure 11-5) must provide either a transit stop pad on-site, or an on-site or public sidewalk connection to a transit stop along the subject property's frontage on the transit street; and

(b) Development abutting major transit stops as designated in TDC Chapter 11 (Figure 11-5) must:

(i) Locate any portion of a building within 20 feet of the major transit stop or provide a pedestrian plaza at the transit stop;

(ii) Provide a reasonably direct pedestrian connection between the major transit stop and a building entrance on the site;

(iii) Provide a transit passenger landing pad accessible to disabled persons;

(iv) Provide an easement or dedication for a passenger shelter as determined by the City; and

(v) Provide lighting at the major transit stop.

Section 35. TDC 73B.030 (Additional Minimum Landscaping Requirements for Common Wall Residential Uses) is amended to read as follows:

TDC 73B.030. - Additional Minimum Landscaping Requirements for ~~Common Wall~~ Multi-Family Residential Uses.

(1) *General.* In addition to requirements in TDC 73B.020, ~~Common Wall~~ Multi-Family Residential Uses must comply with the following additional standards.

(a) All areas not occupied by buildings, parking spaces, driveways, drive aisles, pedestrian areas, or undisturbed natural areas must be landscaped.

(i) This standard does not apply to areas subject to the Hedges Creek Wetlands Mitigation Agreement.

~~(b) Duplex and Townhouse developments may include hard surfaces in outdoor areas such as patios and storage areas as determined in the Architectural Review process~~

Section 36. TDC 73B.080 (Minimum Landscaping Standards for All Zones) is amended to read as follows:

TDC 73B.080. Minimum Landscaping Standards for All Zones.

The following are minimum standards for landscaping for all zones.

(1) Required Landscape Areas	<ul style="list-style-type: none"> • Must be designed, constructed, installed, and maintained so that within three years the ground must be covered by living grass or other plant materials. • The foliage crown of trees cannot be used to meet this requirement. • A maximum of ten percent of the landscaped area may be covered with un-vegetated areas of bark chips, rock or stone. • Must be installed in accordance with the provisions of the American National Standards Institute ANSI A300 (Part 1) (Latest Edition). • Must be controlled by pruning, trimming, or otherwise so that: <ul style="list-style-type: none"> • It will not interfere with designated pedestrian or vehicular access; and • It will not constitute a traffic hazard because of reduced visibility.
(2) Fences	<ul style="list-style-type: none"> • Landscape plans that include fences must integrate any fencing into the plan to guide wild animals toward animal crossings under, over, or around transportation corridors.
(3) Tree Preservation	<ul style="list-style-type: none"> • Trees and other plant materials to be retained must be identified on the landscape plan and grading plan. • During construction: <ul style="list-style-type: none"> ◦ Must provide above and below ground protection for existing trees and plant materials identified to remain; ◦ Trees and plant materials identified for preservation must be protected by chain link or other sturdy fencing placed around the tree at the drip line; ◦ If it is necessary to fence within the drip line, such

	<p>fencing must be specified by a qualified arborist;</p> <ul style="list-style-type: none"> ◦ Top soil storage and construction material storage must not be located within the drip line of trees designated to be preserved; ◦ Where site conditions make necessary a grading, building, paving, trenching, boring, digging, or other similar encroachment upon a preserved tree's drip-line area, such grading, paving, trenching, boring, digging, or similar encroachment must only be permitted under the direction of a qualified arborist. Such direction must assure that the health needs of trees within the preserved area can be met; and ◦ Tree root ends must not remain exposed. • Landscaping under preserved trees must be compatible with the retention and health of the preserved tree. • When it is necessary for a preserved tree to be removed in accordance with TDC 33.110 (Tree Removal Permit) the landscaped area surrounding the tree or trees must be maintained and replanted with trees that relate to the present landscape plan, or if there is no landscape plan, then trees that are complementary with existing, landscape materials. Native trees are encouraged • 100 percent of the area preserved under any tree or group of trees (Except for impervious surface areas) retained in the landscape plan must apply directly to the percentage of landscaping required for a development
(4) Grading	<ul style="list-style-type: none"> • After completion of site grading, top-soil is to be restored to exposed cut and fill areas to provide a suitable base for seeding and planting. • All planting areas must be graded to provide positive drainage. • Soil, water, plant materials, mulch, or other materials must not be allowed to wash across roadways or walkways. • Impervious surface drainage must be directed away from pedestrian walkways, dwelling units, buildings, outdoor private and shared areas and landscape areas

	except where the landscape area is a water quality facility.
(5) Irrigation	<ul style="list-style-type: none"> • Landscaped areas must be irrigated with an automatic underground or drip irrigation system • Exceptions: <ul style="list-style-type: none"> ◦ Irrigation requirement does not apply to duplexes and townhouses.
(6) Re-vegetation in Un-landscaped Areas	<ul style="list-style-type: none"> • Vegetation must be replanted in all areas where vegetation has been removed or damaged in areas not affected by the landscaping requirements and that are not to be occupied by structures or other improvements. • Plant materials must be watered at intervals sufficient to ensure survival and growth for a minimum of two growing seasons. • The use of native plant materials is encouraged to reduce irrigation and maintenance demands. • Disturbed soils should be amended to an original or higher level of porosity to regain infiltration and stormwater storage capacity.

Section 37. TDC 73C.010 (Off-Street Parking and Loading Applicability and General Requirements) is amended to read as follows:

TDC 73C.010. - Off-Street Parking and Loading Applicability and General Requirements.

(1) *Applicability.* Off-street parking and loading is required to be provided by the owner and/or developer, in all zones, whenever the following occurs:

- (a) Establishment of a new structure or use;
- (b) Change in use; or
- (c) Change in use of an existing structure.

(2) *General Requirements.* Off-street parking spaces, off-street vanpool and carpool parking spaces, off-street bicycle parking, and off-street loading berths must be as provided as set forth in TDC 73C.100, unless greater requirements are otherwise established by the conditional use permit or the Architectural Review process.

- (a) The following apply to property and/or use with respect to the provisions of TDC 73C.100:

- (i) The requirements apply to both the existing structure and use, and enlarging a structure or use;
- (ii) The floor area is measured by gross floor area of the building primary to the function of the particular use of the property other than space devoted to off-street parking or loading;
- (iii) Where employees are specified, the term applies to all persons, including proprietors, working on the premises during the peak shift;
- (iv) Calculations to determine the number of required parking spaces and loading berths must be rounded to the nearest whole number;
- (v) If the use of a property changes, thereby increasing off-street parking or loading requirements, the increased parking/loading area must be provided prior to commencement of the new use;
- (vi) Parking and loading requirements for structures not specifically listed herein must be determined by the City Manager, based upon requirements of comparable uses listed;
- (vii) When several uses occupy a single structure, the total requirements for off-street parking may be the sum of the requirements of the several uses computed separately or be computed in accordance with TDC 73.370(1)(m), Joint Use Parking;
- (viii) Off-street parking spaces for dwellings must be located on the same lot with the dwelling. Other required parking spaces may be located on a separate parcel, provided the parcel is not greater than five hundred (500) feet from the entrance to the building to be served, measured along the shortest pedestrian route to the building. The applicant must prove that the parking located on another parcel is functionally located and that there is safe vehicular and pedestrian access to and from the site. The parcel upon which parking facilities are located must be in the same ownership as the structure;
- (ix) Required parking spaces must be available for the parking of operable passenger automobiles of residents, customers, patrons and employees and must not be used for storage of vehicles or materials or for the parking of trucks used in conducting the business;
- (x) Institution of on-street parking, where none is previously provided, must not be done solely for the purpose of relieving crowded parking lots in commercial or industrial zones; ~~and~~

(xi) Required vanpool and carpool parking must meet the 9-foot parking stall standards in Figure 73-1 and be identified with appropriate signage;

(xii) Where uses are mixed in a single building, parking must be a blend of the ratio required less ten (10) percent for the minimum number of spaces. The maximum number of spaces must be ten (10) percent less than the total permitted maximum for each use; and

(xiii) If the applicant demonstrates that too many or too few parking spaces are required, applicant may seek a variance from the minimum or maximum by providing evidence that the particular use needs more or less than the amount specified in this Code.

Section 38. TDC 73C.020 (Parking Lot Design Standards) is amended to read as follows:

TDC 73C.020. - Parking Lot Design Standards.

A parking lot, whether an accessory or principal use, intended for the parking of automobiles or trucks, must comply with the following:

(1) Off-street parking lot design must comply with the dimensional standards set forth in Figure 73-1;

(a) Exception: Parking structures and underground parking where stall length and width requirements for a standard size stall must be reduced by .5 feet and vehicular access at the entrance if gated must be a minimum of 18 feet in width.

(2) Parking ~~lots and parking areas~~ lot drive aisles must be constructed of asphalt, concrete, pervious concrete, pavers, or grasscrete. Gravel is not an acceptable material;

(3) Parking stalls must be constructed of asphalt, concrete, pervious concrete, pavers, or grasscrete. ~~but not~~ Gravel or woody material are not an acceptable materials. Pavers, pervious concrete, or grasscrete ~~Pervious surfaces,~~ are encouraged for parking stalls in or abutting the Natural Resource Protection Overlay District, Other Natural Areas, or in a Clean Water Services Vegetated Corridor;

(4) Parking lots must be maintained adequately for all-weather use and drained to avoid water flow across sidewalks;

(5) Parking bumpers or wheel stops or curbing must be provided to prevent cars from encroaching on adjacent landscaped areas, or adjacent pedestrian walkways.

(6) Disability parking spaces and accessibility must meet ADA standards applicable at time of construction or alteration;

(7) Parking stalls for sub-compact vehicles must not exceed 35 percent of the total parking stalls required by TDC 73C.100. Stalls in excess of the number required by TDC 73C.100 can be sub-compact stalls;

(8) Groups of more than four parking spaces must be so located and served by driveways that their use will require no backing movements or other maneuvering within a street right-of-way other than an alley;

(9) Drives to off-street parking areas must be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic access and egress, and maximum safety of pedestrians and vehicular traffic on the site;

(10) On-site drive aisles without parking spaces, which provide access to parking areas with regular spaces or with a mix of regular and sub-compact spaces, must have a minimum width of 22 feet for two-way traffic and 12 feet for one-way traffic; When 90 degree stalls are located on both sides of a drive aisle, a minimum of 24 feet of aisle is required. On-site drive aisles without parking spaces, which provide access to parking areas with only sub-compact spaces, must have a minimum width of 20 feet for two-way traffic and 12 feet for one-way traffic;

(11) Artificial lighting, must be deflected to not shine or create direct glare on adjacent properties in a residential zones, street right-of-way, a Natural Resource Protection Overlay District, Other Natural Areas, or a Clean Water Services Vegetated Corridor;

(12) Parking lot landscaping must be provided pursuant to the requirements of TDC 73C.200; and

(13) Except for parking to serve residential uses, parking areas adjacent to or within residential zones or adjacent to residential uses must be designed to minimize disturbance of residents.

Section 39. TDC 73C.100 (Off-Street Parking Minimum/Maximum Requirements) are amended to read as follows:

TDC 73C.100. Off-Street Parking Minimum/Maximum Requirements.

(1) The following are the minimum and maximum requirements for off-street motor vehicle parking in the City, except these standards do not apply in the Core Area Parking District. The Core Area Parking District standards are in TDC 73C.110.

USE	MINIMUM MOTOR VEHICLE PARKING	MAXIMUM MOTOR VEHICLE PARKING	BICYCLE PARKING	PERCENTAGE OF BICYCLE PARKING TO BE COVERED
(a) Residential Uses				

<p>(i) Detached single-family dwelling, residential home, residential facilities (located in low density (RL) zones) Townhouse and Duplexes</p>	<p>2.00 vehicle parking spaces per dwelling unit, residential home or residential facility in addition to a garage. (stalls or spaces within a residential garage not included, except as approved in Architectural Review).</p>	<p>None</p>	<p>None Required</p>	<p>N/A</p>
<p><u>(ii) Duplexes</u></p>	<p><u>1.00 vehicle parking space per dwelling unit</u></p>	<p><u>None</u></p>	<p><u>None Required</u></p>	
<p><u>(iii) Townhouses</u></p>	<p><u>1.00 vehicle parking space per dwelling unit</u></p>	<p><u>None</u></p>	<p><u>None Required</u></p>	
<p><u>(iv) Triplexes and (v) Quadplexes</u></p>	<p><u>1.00 space in total for lots less than 3,000 SF.</u> <u>2.00 spaces in total for lots greater than or equal to 3,000 SF and less than 5,000 SF.</u> <u>3.00 spaces in total for lots greater than 5,000 SF and less than 7,000 SF.</u></p>	<p><u>None</u></p>	<p><u>None Required</u></p>	

	<u>4.00 spaces in total for lots equal to or greater than 7,000 SF.</u>			
<u>(vi) Cottage Clusters</u>	<u>1.00 space per dwelling unit in a Cottage Cluster. Spaces may be provided for individual cottages or in shared parking clusters.</u>	<u>None</u>	<u>None Required</u>	
<u>(vii) (ii) Multi-family dwellings in subdivisions</u>	<u>1.50 spaces per unit, in addition to garage</u>	<u>None</u>	Developments with <u>five</u> four or more units; none required if a garage is provided as an integral element of a unit; otherwise 1.00 space per unit	100
<u>(viii) (iii) Multi-family dwellings in complexes with private internal driveways</u>	<u>1.0 space/studio, 1.25 space/1 bedroom, 1.50 space/2 bedrooms, 1.75 space/3 bedrooms in addition to garage</u>	<u>None</u>	Developments with <u>five</u> four or more units; none required if a garage is provided as an integral element of a unit; otherwise 1.00 space per unit	100
<u>(ix) (iv) Retirement housing facility</u>	<u>1.00 space per dwelling unit</u>	<u>None</u>	<u>0.50 space per unit</u>	<u>50</u>

(x)(v) Boarding house, lodging	1.00 space per guest house accommodation	None	0.25 space per guest house accommodation	50
(xi)(vi) Congregate care, assisted living and residential care facilities	0.50 space per dwelling unit	None	2, or 0.20 spaces per dwelling unit, whichever is greater	50
(xii)(vii) Residential facilities (located in other than low density residential zones)	1.00 space per three beds, plus 1.00 space per employee	None	2, or 1.00 space for every six beds, whichever is greater	50
(xiii)(viii) Dwelling units within the Central Design District except as specified in (d), (e), and (f) above	1.50 space per dwelling unit, including garage	None	<u>Multi-family residential developments with five four or more units; none required if a garage is provided as an integral element of a unit; otherwise 1.00 space per unit</u>	100
(b) Institutions				
(i) Convalescent home, nursing home or sanitarium	1.00 space per 2 beds for patients or residents	None	2, or 1.00 space for every six beds, whichever is greater	50
(ii) Hospital	1.00 space per 500 square feet of gross floor area	None	1 space per 1,000 gross square feet	First ten spaces or 40 percent

				whichever is greater
(c) Places of Public Assembly				
(i) Library, reading room	1.00 space per 400 square feet of public area	None	2, or 1.5 spaces per 1,000 gross square feet, whichever is greater	10
(ii) Nursery, primary, elementary or middle school, child day care center	2.00 spaces per employee	None	4, or 1.00 space per five students based on the design capacity of the facility, whichever is greater	75
(iii) Senior high school	0.2 spaces per student and staff	Zone A and Zone B: 0.3 spaces per student plus 1.00 space per staff	4, or 1.00 space per five students based on the design capacity of the facility, whichever is greater	25
(iv) Other places of public assembly, including churches	1.00 space per four seats or eight feet of bench length	Zone A: 0.6 spaces per seat Zone B: 0.5 spaces per seat	1.0 space per 40 seats or 80 feet of bench length	35
(d) Commercial Amusements				
(i) Theater	1.00 space per four seats	Zone A: 0.4 spaces per seat Zone B: 0.5 spaces per seat	1.0 space per 30 seats	10
(ii) Bowling alley	5.00 spaces per lane	None	4 <u>spaces</u> ; or 0.50 spaces	40

			per lane, whichever is greater	
(iii) Dance hall, skating rink	4.3 spaces per 1,000 square feet of gross floor area	Zone A: 5.4 spaces per 1,000 square feet of gross floor area Zone B: 6.5 spaces per 1,000 square feet of gross floor area	2 spaces per 1,000 square feet of floor area	50
(iv) Racquet court, health club	1.00 space per 1,000 square feet of gross floor area	Zone A: 1.3 spaces per 1,000 square feet of gross floor area Zone B: 1.5 spaces per 1,000 square feet of gross floor area	2 spaces per 1,000 square feet of exercise area	50
(e) Commercial				
(i) Retail shops (under 100,000 square feet of gross floor area)	4.00 spaces per 1,000 square feet of gross floor area	Zone A: 5.1 spaces per 1,000 square feet of gross floor area Zone B: 6.2 spaces per 1,000 square feet of gross floor area	0.50 space per 1,000 square feet of gross floor area	50
(ii) Retail store handling exclusively bulky merchandise such as	1.00 space per 400 square feet of sales floor area	Zone A: 5.1 spaces per 1,000 square feet of gross floor area Zone B: 6.2	2 <u>spaces</u> ; or 0.20 space per 1,000 square feet of sales floor area,	50

furniture or automobiles and service or repair shops		spaces per 1,000 square feet of gross floor area	whichever is greater	
(iii) Shopping center (over 100,000 square feet of gross floor area)	4.1 spaces per 1,000 square feet of gross floor area	Zone A: 5.1 spaces per 1,000 square feet of gross floor area Zone B: 6.2 spaces per 1,000 square feet of gross floor area	0.50 space per 1,000 square feet of gross floor area	50
(iv) Banks/Savings and loans	4.30 spaces per 1,000 square feet of gross floor area	Zone A: 5.4 spaces per 1,000 square feet of gross floor area Zone B: 6.5 spaces per 1,000 square feet of gross floor area	<u>2 spaces</u> ; or 0.33 spaces per 1,000 square feet, whichever is greater	10
(v) Medical & dental offices	3.90 spaces per 1,000 square feet of gross floor area	Zone A: 4.9 spaces per 1,000 square feet of gross floor area Zone B: 5.9 spaces per 1,000 square feet of gross floor area	<u>2 spaces</u> ; or 0.33 spaces per 1,000 gross square feet, whichever is greater	First ten spaces or 40 percent, whichever is greater
(vi) General office	2.70 spaces per 1,000 square feet of gross floor area	Zone A: 3.4 spaces per 1,000 square feet of gross floor area Zone B: 4.1	<u>2 spaces</u> ; or 0.50 spaces per 1,000 gross square feet, whichever is greater	First ten spaces or 40 percent, whichever is greater

		spaces per 1,000 square feet of gross floor area		
(viii) <u>(vii)</u> Restaurant	10.00 spaces per 1,000 square feet of gross floor area	Zone A: 19.1 spaces per 1,000 square feet of gross floor area Zone B: 23.0 spaces per 1,000 square feet of gross floor area	2 spaces per 1,000 gross square feet	25
(ix) <u>(viii)</u> Drive-up restaurant	9.90 spaces per 1,000 square feet of gross floor area	Zone A: 12.4 spaces per 1,000 square feet of gross floor area Zone B: 14.9 spaces per 1,000 square feet of gross floor area	2 spaces per 1,000 gross sq. feet	25
(x) <u>(ix)</u> Motel	1.00 space per room	None	0.20 space per room	10
(xi) <u>(x)</u> Mortuary	1.00 space per four seats or an eight feet of bench length in chapels	None	1.0 space per 40 seats or 80 feet of bench length	10
(xii) <u>(xi)</u> Office furniture and office furniture sales	1.00 space per 550 gross square feet	None	2 <u>spaces</u> ; or 0.20 space per 1,000 square feet of sales floor area, whichever is greater	10
(xiii) <u>(xii)</u> Park and ride lots	None	None	5 percent of auto spaces	100

(xiv) (xiii) Major transit stops (not Park and Ride lots)	None	None	4	100
(xv) (xiv) Wireless communication facility	1.0 space	None	N/A	N/A
(f) Industrial				
(i) Manufacturing	1.60 spaces per 1,000 square feet of gross floor area	None	2 <u>spaces</u> ; or 0.10 spaces per 1,000 gross square feet, whichever is greater	First five spaces or 30 percent, whichever is greater
(ii) Warehousing	0.30 spaces per 1,000 square feet of gross floor area	Zone A: 0.4 spaces per 1,000 square feet of gross floor area Zone B: 0.5 spaces per 1,000 square feet of gross floor area	2 <u>spaces</u> ; or 0.10 spaces per 1,000 gross square feet, whichever is greater	First five spaces or 30 percent, whichever is greater
(iii) Wholesale establishment	3.00 spaces per 1,000 square feet of gross floor area	None	2 <u>spaces</u> ; or 0.50 spaces per 1,000 gross square feet, whichever is greater	First five spaces or 30 percent, whichever is greater
(g) Exempt Uses				
(i) Parking Structures	Exempt	Exempt	Exempt	Exempt
(ii) Fleet Parking	Exempt	Exempt	Exempt	Exempt
(iii) Parking for vehicles for sale, lease, or rent	Exempt	Exempt	Exempt	Exempt

(iv) Car/Vanpool Parking	Exempt	Exempt	Exempt	Exempt
(v) Dedicated Valet Parking	Exempt	Exempt	Exempt	Exempt
(vi) User-Paid Parking	Exempt	Exempt	Exempt	Exempt

(2) In addition to the general parking requirements in subsection (1), the following are the minimum number of off-street vanpool and carpool parking for commercial, institutional, and industrial uses.

Number of Required Parking Spaces	Number of Vanpool or Carpool Spaces
0 to 10	1
10 to 25	2
26 and greater	1 for each 25 spaces

Section 40. TDC 73C.130 (Parking Lot Driveway and Walkway Minimum Requirements) is amended to read as follows:

TDC 73C.130. Parking Lot Driveway and Walkway Minimum Requirements.

Parking lot driveways and walkways must comply with the following requirements:

(1) *Residential Use.* Minimum requirements for residential uses:

(a) Ingress and egress for single-family residential uses and duplexes, including ~~townhouses, and duplexes~~ must be paved to a minimum width of ten feet. Maximum driveway widths must not exceed 26 feet for one and two car garages, and 37 feet for three or more car garages. For the purposes of this section, driveway widths must be measured at the right-of-way line.

(b) Parking lots driveways and walkways for townhouses, triplexes, quadplexes, and cottage clusters must be provided consistent with the provisions of Chapter 73A.

(c)(b) Ingress and egress for multi-family residential uses must not be less than the following:

Dwelling Units	Minimum Number Required	Minimum Width	Walkways, etc.
2	4	16 feet	No walkways or curbs required

53-19	1	24 feet	No walkways or curbs required
20-49	1 or 2	24 feet 16 feet (one way)	6-foot walkway, 1 side only; curbs required
50-499	1 or 2	32 feet 24 feet	6-foot walkway, 1 side only; curbs required
Over 500	As required by City Manager	As required by City Manager	As required by City Manager

(2) *Commercial Uses.* Ingress and egress for commercial and institutional uses must not be less than the following:

Required Parking Spaces	Minimum Number Required	Minimum Pavement Width	Minimum Pavement Walkways, etc.
1-99	1	32 feet for first 50 feet from ROW, 24 feet thereafter	Curbs required; walkway 1 side only
100-249	2	32 feet for first 50 feet from ROW, 24 feet thereafter	Curbs required; walkway 1 side only
Over 250	As required by City Manager	As required by City Manager	As required by City Manager

(3) *Industrial Use.* Ingress and egress for industrial uses must not be less than the following:

Required Parking Spaces	Minimum Number Required	Minimum Pavement Width	Minimum Pavement Walkways, etc.
1-250	1	36 feet for first 50' from ROW, 24 feet thereafter	No curbs or walkway required
Over 250	As required by City Manager	As required by City Manager	As required by City Manager

(4) *Institutional Uses.* Ingress and egress must not be less than 24 feet. In all other cases, ingress and egress for institutional uses must not be less than the following:

Required Parking Spaces	Minimum Number Required	Minimum Pavement Width	Minimum Pavement Walkways, etc.
1-99	1	32 feet for first 50 feet from ROW, 24 feet thereafter	Curbs required; walkway 1 side only
100-249	2	32 feet for first 50 feet from ROW, 24 feet thereafter	Curbs required; walkway 1 side only
Over 250	As required by City Manager	As required by City Manager	As required by City Manager

(5) *One-way Ingress or Egress.* When approved through the Architectural Review process, one-way ingress or egress may be used to satisfy the requirements. However, the hard surfaced pavement of one-way drives must not be less than 16 feet for multi-family residential developments (as defined in TDC 31.060), commercial, or industrial uses.

(6) *Maximum Driveway Widths and Other Requirements.*

(a) Unless otherwise provided in this chapter, maximum driveway widths for Commercial, Industrial, and Institutional uses must not exceed 40 feet.

(b) Driveways must not be constructed within five feet of an adjacent property line, unless the two adjacent property owners elect to provide joint access to their respective properties, as provided by TDC 73C.040.

(c) The provisions of subsection (b) do not apply to townhouses, ~~and~~ duplexes, triplexes, quadplexes, and cottage clusters which are allowed to construct driveways within five feet of adjacent property lines.

(d) There must be a minimum distance of 40 feet between any two adjacent driveways on a single property unless a lesser distance is approved by the City Manager.

(e) Must comply with the distance requirements for access as provided in TDC 75.

(f) Must comply with vision clearance requirements in TDC 75.

Section 41. TDC 73C.200 (Parking Lot Landscaping Standards Purpose and Applicability) is amended to read as follows:

TDC 73C.200. - Parking Lot Landscaping Standards Purpose and Applicability.

(1) *Purpose.* The goals of the off-street parking lot standards are to create shaded areas in parking lots, to reduce glare and heat buildup, provide visual relief within paved parking areas, emphasize circulation patterns, reduce the total number of spaces, reduce the impervious surface area and stormwater runoff, and enhance the visual environment. The design of the off-street parking area must be the responsibility of the developer and should consider visibility of signage, traffic circulation, comfortable pedestrian access, and aesthetics.

(2) *Applicability.* Off-street parking lot landscaping standards apply to any surface vehicle parking or circulation area. The following standards do not apply to the following residential development: single family detached or attached; duplexes; townhouses; triplexes; quadplexes; or cottage clusters.

Section 42. TDC 73C.210 (Common Wall Parking Lot Landscaping Requirements) is amended to read as follows:

TDC 73C.210. - ~~Common Wall~~ Multi-Family Parking Lot Landscaping Requirements.

~~Common wall~~ Multi-family residential uses (as defined in TDC 31.060) must comply with the following landscaping requirements for parking lots in all zones:

- (1) *General.* Locate landscaping or approved substitute materials in all areas not necessary for vehicular parking and maneuvering.
- (2) *Clear Zone.* Clear zone must be provided for the driver at ends of on-site drive aisles and at driveway entrances, vertically between a maximum of 30 inches and a minimum of eight feet as measured from the ground level.

(a) Exceptions: does not apply to parking structures and underground parking.

(3) *Setback.* Minimum 10-foot landscape setback must be provided between the property lines and parking areas and must comply with the following:

(a) Must be planted with deciduous trees an average of not more than 30 feet on center and shrubs at least 30 inches in height which provide screening of vehicular headlights; and

(b) Native trees and shrubs are encouraged.

~~(c) Exceptions: Minimum 10-foot landscape setback does not apply to Duplexes and Townhouses.~~

(4) *Perimeter.* Minimum five feet in width in all off-street parking and vehicular circulation areas, including loading areas and must comply with the following:

(a) Deciduous trees located not more than 30 feet apart on average as measured on center;

(b) Shrubs or ground cover, planted so as to achieve 90 percent coverage within three years;

(c) Plantings which reach a mature height of 30 inches in three years which provide screening of vehicular headlights year round;

(d) Native trees and shrubs are encouraged; and

(e) Exceptions:

(i) Not required where off-street parking areas on separate lots are adjacent to one another and connected by vehicular access.

(ii) Minimum of ten feet in width for all conditional uses in residential zones. However perimeter landscaping does not apply to small lot subdivisions.

(5) *Transition*. Minimum 10-foot landscaped transition area between parking and vehicle circulation areas and buildings and shared outdoor areas and must comply with the following:

(a) Deciduous shade trees located at not less than 30 feet on center must be located in this transition area;

(b) Groundcover plants mixed with low shrubs must completely cover the remainder of this area within three years;

(c) Native trees and shrubs are encouraged; and

(d) Exceptions: Minimum 10-foot landscaped transition area does not apply to Duplexes and Townhouses.

(6) *Landscape Island*. Minimum 25 square feet per parking stall must be improved with landscape island areas and must comply with the following:

(a) May be lower than the surrounding parking surface to allow them to receive stormwater run-off and function as water quality facilities as well as parking lot landscaping;

(b) Must be protected from vehicles by curbs, but the curbs may have spaces to allow drainage into the islands;

(c) Landscape separation required for every eight continuous spaces in a row;

(d) Must be planted with one deciduous shade trees for every four parking spaces. Required trees must be evenly dispersed throughout the parking lot;

(e) Must be planted with groundcover or shrubs;

(f) Native plant materials are encouraged;

(g) Landscape island areas with trees must be a minimum of five feet in width (from inside of curb to curb);

(h) Required plant material in landscape islands must achieve 90 percent coverage within three years; and

(i) Exceptions:

(i) Landscape island requirements do not apply to Duplexes and Townhouses; and

(ii) Landscape square footage requirements do not apply to parking structures and underground parking.

Section 43. TDC 75.040 (Driveway Approach Requirements) and Table 75-1 are amended to read as follows:

TDC 75.040. Driveway Approach Requirements.

(1) The provision and maintenance of driveway approaches from private property to the public streets as stipulated in this Code are continuing requirements for the use of any structure or parcel of real property in the City of Tualatin. No building or other permit may be issued until scale plans are presented that show how the driveway approach requirement is to be fulfilled. If the owner or occupant of a lot or building changes the use to which the lot or building is put, thereby increasing driveway approach requirements, it is unlawful and a violation of this Code to begin or maintain such altered use until the required increase in driveway approach is authorized by the City.

(2) Owners of two or more uses, structures, or parcels of land may agree to utilize jointly the same driveway approach when the combined driveway approach of both uses, structures, or parcels of land satisfies their combined requirements as designated in this Code; provided that satisfactory legal evidence is presented to the City Attorney in the form of deeds, easements, leases or contracts to establish joint use. Copies of said deeds, easements, leases or contracts must be placed on permanent file with the City Recorder.

(3) *Joint and Cross Access.*

(a) Adjacent commercial uses may be required to provide cross access drive and pedestrian access to allow circulation between sites.

(b) A system of joint use driveways and cross access easements may be required and may incorporate the following:

(i) A continuous service drive or cross access corridor extending the entire length of each block served to provide for driveway separation consistent with the access management classification system and standards;

(ii) A design speed of ten mph and a maximum width of 24 feet to accommodate two-way travel aisles designated to accommodate automobiles, service vehicles, and loading vehicles;

(iii) Stub-outs and other design features to make it visually obvious that the abutting properties may be tied in to provide cross access via a service drive; and

(iv) An unified access and circulation system plan for coordinated or shared parking areas.

(c) Pursuant to this section, property owners may be required to:

(i) 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;

(ii) Record an agreement with the deed that remaining access rights along the roadway will be dedicated to the City and pre-existing driveways will be closed and eliminated after construction of the joint-use driveway;

(iii) Record a joint maintenance agreement with the deed defining maintenance responsibilities of property owners; and

(iv) If subsection(i) through (iii) above involve access to the state highway system or county road system, ODOT or the county must be contacted and must approve changes to subsection(i) through (iii) above prior to any changes.

(4) Requirements for Development on Less than the Entire Site.

(a) To promote unified access and circulation systems, lots and parcels under the same ownership or consolidated for the purposes of development and comprised of more than one building site must be reviewed as one unit in relation to the access standards. The number of access points permitted must be the minimum number necessary to provide reasonable access to these properties, not the

maximum available for that frontage. All necessary easements, agreements, and stipulations must be met. This must also apply to phased development plans. The owner and all lessees within the affected area must comply with the access requirements.

(b) All access must be internalized using the shared circulation system of the principal commercial development or retail center. Driveways should be designed to avoid queuing across surrounding parking and driving aisles.

(5) Lots that front on more than one street may be required to locate motor vehicle accesses on the street with the lower functional classification as determined by the City Manager.

(6) Except as provided in TDC 53.100, all driveway approaches must connect directly with public streets.

(7) To afford safe pedestrian access and egress for properties within the City, a sidewalk must be constructed along all street frontage, prior to use or occupancy of the building or structure proposed for said property. The sidewalks required by this section must be constructed to City standards, except in the case of streets with inadequate right-of-way width or where the final street design and grade have not been established, in which case the sidewalks must be constructed to a design and in a manner approved by the City Manager. Sidewalks approved by the City Manager may include temporary sidewalks and sidewalks constructed on private property; provided, however, that such sidewalks must provide continuity with sidewalks of adjoining commercial developments existing or proposed. When a sidewalk is to adjoin a future street improvement, the sidewalk construction must include construction of the curb and gutter section to grades and alignment established by the City Manager.

(8) The standards set forth in this Code are minimum standards for driveway approaches, and may be increased through the Architectural Review process in any particular instance where the standards provided herein are deemed insufficient to protect the public health, safety, and general welfare.

(9) Minimum driveway approach width for uses are as provided in Table 75-1 (Driveway Approach Width):

**TABLE 75-1
Driveway Approach Width**

Use	Minimum Driveway Approach Width	Maximum Driveway Approach Width
Single-Family Residential, <u>Duplexes, Triplexes,</u> <u>Quadplexes, Townhomes,</u>	10 feet	26 feet for one or two care garages

<u>Cottage Clusters</u> townhouses, and duplexes		37 feet for three or more garages
Multi-family	2 Units = 16 feet 35 -49 Units = 24 feet 50-499 = 32 feet Over 500 = as required by the City Manager	May provide two 16 foot one-way driveways instead of one 24-foot driveway May provide two 24-foot one-way driveways instead of one 32-foot driveway
Commercial	1-99 Parking Spaces = 32 feet 100-249 Parking Spaces = two approaches each 32 feet	Over 250 Parking Spaces = As Required by the City Manager, but not exceeding 40 feet
Industrial	36 feet	Over 250 Parking Spaces = As Required by the City Manager, but not exceeding 40 feet
Institutional	1-99 Parking Spaces = 32 feet 100-249 Parking Spaces = two approaches each 32 feet	Over 250 Parking Spaces = As Required by the City Manager, but not exceeding 40 feet

(10) *Driveway Approach Separation.* There must be a minimum distance of 40 feet between any two adjacent driveways on a single property unless a lesser distance is approved by the City Manager.

(11) *Distance between Driveways and Intersections.* Except for single-family dwellings, duplexes, townhouses, triplexes, quadplexes, and cottage clusters, the minimum distance between driveways and intersections must be as provided below. Distances listed must be measured from the stop bar at the intersection.

(a) At the intersection of collector or arterial streets, driveways must be located a minimum of 150 feet from the intersection.

(b) At the intersection of two local streets, driveways must be located a minimum of 30 feet from the intersection.

(c) If the subject property is not of sufficient width to allow for the separation between driveway and intersection as provided, the driveway must be constructed as far from the intersection as possible, while still maintaining the 5-foot setback between the driveway and property line.

(d) When considering a driveway approach permit, the City Manager may approve the location of a driveway closer than 150 feet from the intersection of collector or arterial streets, based on written findings of fact in support of the decision.

(12) *Vision Clearance Area.*

(a) *Local Streets.* A vision clearance area for all local street intersections, local street and driveway intersections, and local street or driveway and railroad intersections must be that triangular area formed by the right-of-way lines along such lots and a straight line joining the right-of-way lines at points which are ten feet from the intersection point of the right-of-way lines, as measured along such lines (see Figure 73-2 for illustration).

(b) *Collector Streets.* A vision clearance area for all collector/arterial street intersections, collector/arterial street and local street intersections, and collector/arterial street and railroad intersections must be that triangular area formed by the right-of-way lines along such lots and a straight line joining the right-of-way lines at points which are 25 feet from the intersection point of the right-of-way lines, as measured along such lines. Where a driveway intersects with a collector/arterial street, the distance measured along the driveway line for the triangular area must be ten feet (see Figure 73-2 for illustration).

(c) *Vertical Height Restriction.* Except for items associated with utilities or publicly owned structures such as poles and signs and existing street trees, no vehicular parking, hedge, planting, fence, wall structure, or temporary or permanent physical obstruction must be permitted between 30 inches and eight feet above the established height of the curb in the clear vision area (see Figure 73-2 for illustration).

Section 44. Findings. The Council adopts the Findings as set forth in Exhibit 1, which are attached and incorporated by reference.

Section 45. Corrections. Consistent with Tualatin Municipal Code Chapter 1-1, the City Attorney is authorized to renumber any and all existing figures to correspond to the updated Chapters, and correct any errors.

Section 46. Severability. Each section of this ordinance, and any part thereof, is severable. If any part of this ordinance is held invalid by a court of competent jurisdiction, the remainder of this ordinance will remain in full force and effect.

Section 47. Effective Date. As provided in the Tualatin Charter, this ordinance is effective 30 days from the date of adoption

ADOPTED by the City Council this ____ day of _____, _____.

CITY OF TUALATIN, OREGON

BY _____
Mayor

APPROVED AS TO FORM

ATTEST:

BY _____
City Attorney

BY _____
City Recorder

EXHIBIT 1
ORDINANCE NO. 1463-21



December 2, 2021
**Analysis and Findings for
Middle Housing Code Plan Text Amendment**

Case #:	PTA 21-0002
Project:	Middle Housing Code Amendments
Applicant:	City of Tualatin

TABLE OF CONTENTS

I. INTRODUCTION2

A. Applicable Criteria..... **Error! Bookmark not defined.**

B. Project Description **Error! Bookmark not defined.**

II. PLANNING FINDINGS.....5

A. Statewide Planning Goals 5

B. Oregon Administrative Rules **Error! Bookmark not defined.5**

C. Metro Code..... 8

D. Tualatin Development Code 10

I. INTRODUCTION

A. Applicable Criteria

Applicable Statewide Planning Goals; Divisions 7 and 18 of the Oregon Administrative Rules; applicable Sections of the City of Tualatin Development Code.

B. Project Description

The scope of Plan Text Amendment PTA 21-0002 is to bring the Tualatin Development Code into compliance with HB 2001. House Bill 2001 was passed in 2019 by the Oregon Legislature and was intended to provide Oregonians with more housing choices, especially housing choices more people can afford. The law expands the ability of property owners to build certain traditional housing types including duplexes, triplexes, quadplexes, cottage clusters and townhouses. These housing types already exist in most cities, but were outlawed for decades in many neighborhoods. These limitations contribute to increased housing costs and fewer choices.

Additionally, by June 30, 2022, cities (with population over 25,000) like Tualatin and cities in the Portland Metro region, must allow duplexes, triplexes, quadplexes, cottage clusters, and townhouses in residential areas. The State of Oregon through its Department of Land Conversation and Development (DLDC) has adopted a model code which would apply on July 1, 2022, if the local jurisdiction does not have its own HB 2001 compliant code changes adopted by that time.

Table 1 lists the proposed changes to the TDC to address middle housing and provide a wider array of housing choices.

Table 1—Overview of Proposed Comprehensive Plan Organization

TDC Chapter	Title	Draft Proposed Code
31	General Provisions <i>Definitions</i>	Revises and adds definitions to clarify housing types and standards including housing type descriptions and standards like Floor Area Ratio (FAR).
32	Procedures	Revises to Type I review for middle housing types. Type I reviews respond to predictable and objective written code standards evaluated by staff.
33	Applications and Approval Criteria	Revises the application of the Type I Architectural Review process that applies to single-family dwellings to additional middle housing types. Clarifies processes that are applicable when property owners update, remodel, or add an addition to a home, or request a variance to a standard.
34	Special Regulations	Minor updates to Home Occupation Provisions. Moves Accessory Dwelling Unit (ADU) standards with other design standards in Chapter 73A.
36	Subdividing, Partitions, and Property Line Adjustments	Describes how flexible lot subdivision standards are applied to meet clear and objective requirements for all housing, including for middle housing types based on development standards in other chapters.
39	Use Categories	Clarifies household living use as encompassing a range of development types.
40	Low Density Residential Zone	<ul style="list-style-type: none"> Adds Townhomes, Duplexes, Triplexes, and Quadplexes as “Permitted” uses subject to review.

TDC Chapter	Title	Draft Proposed Code
	(RL)	<ul style="list-style-type: none"> • Adds Cottage Cluster housing type, subject to review; • Updates development standards such as minimum lot size and coverage standards for middle housing types; • Introduction of Floor Area Ratio (FAR) to effectively require smaller structures on smaller lots. • Clarifies flexible lot subdivision provisions.
41	Medium Low Density Residential Zone (RML)	<ul style="list-style-type: none"> • Adds Cottage Cluster housing type; • Updates development standards such as minimum lot size and coverage standards for middle housing types; • Introduction of Floor Area Ratio (FAR) to effectively require smaller structures on smaller lots. • Clarifies flexible lot subdivision provisions.
58	Central Tualatin Overlay Zone	<ul style="list-style-type: none"> • Adds middle housing types in situations where detached single family dwellings allowed consistent with state law.
73A	Site Design Standards	<ul style="list-style-type: none"> • Applies existing criteria such as minimum window coverage and the requirement for “architectural features” that currently apply to single-family homes to additional middle housing types; • Adds section for applicable design standards for cottage cluster housing focused on common courtyard and unit standards. • Adds design standards for accessory dwelling units (ADUs), moved from Chapter 35, updates parking and siting standards for consistency with current state law, clear and objective requirements, and to coordinate with other code changes that allow for new units on a site. • Updates multi-family design standards to remove subjective requirements, consistent with state law.
73B	Landscaping Standards	Clarifies applicable standards for middle housing separate from larger multi-family developments.
73C	Parking Standards	Updates parking ratios to be consistent with middle housing legislation.
75	Access Management	Updates driveway width and spacing standards to reflect unique situations that can be presented with townhomes and attached dwellings.

II. FINDINGS

A. Oregon Statewide Planning Goals

Goal 1 – Citizen Involvement

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

Finding:

The proposed amendments are an update to Tualatin Development Code. The basis for this update is needed compliance with Housing Bill 2001, also known as “Middle Housing” requirements applicable to cities and counties in Oregon. The proposed amendments have been reviewed the Tualatin Planning Commission, which is the City’s acknowledged Committee for Citizen Involvement (CCI), in compliance with Goal 1. The Tualatin Planning Commission also served as the community advisory committee during the phase of this project which included conceptual development of the code concepts which ultimately became the proposed amendments. The Planning Commission held multiple public meetings at which the public was able to comments. In February of 2021 staff and the project consultant hosted a public webinar to get feedback and the code concepts, and in May 2021, a public survey was conducted that received over 100 responses and included feedback on elements of the proposed code. Two work sessions were also held at the City Council, which the public was able to attend.

Specific to the proposed amendments, The Tualatin Planning Commission held a public meeting on October 21, 2021 at which it recommended approval of the proposed amendments to City Council. On December 13, 2021, the City Council will hold a hearing open to the public to consider the Planning Commission’s recommendation, and make a decision on the proposed amendments. Further, the City has followed its acknowledged public notice procedures for legislative Comprehensive Plan Amendments, found in TDC 32.250, which include publishing notice of the City Council hearing in the Tualatin Times, notice of the hearing to the Department of Land Conservation and Development at least 35 days prior to the first hearing, notice to affected government entities, and publicly posting notice of the hearing. Further, the City Council meeting schedule is made available on the internet, and notice of both the Planning Commission meeting and City Council hearing were provided to interested parties.

The proposed amendments conform to Goal 1.

Goal 2 – Land Use Planning

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

Finding:

The City of Tualatin’s Comprehensive Plan and Development Code provide an acknowledged and established land use planning process and policy framework which service as the basis for all decisions and actions related to use of land, which include requirements to assure than an adequate factual base is provided for those decisions and actions. The proposed Plan Text Amendment (PTA) to amend the Tualatin Development Code has been processed in accordance with these procedures.

The proposed amendments conform to Goal 2.

Goal 5 – Open Spaces, Scenic and Historic Area, and Natural Resource

Goal 5 establishes a process for each resource to be inventoried and evaluated. OAR 660-015-0000(5) and OAR 660.023 (Procedures and Requirements for Complying with Goal 5)

Finding:

There are no text changes that modify the City's existing open space and natural resources requirements. The proposed PTA does not include any map changes or changes to the regulations for those Goal 5 resources regulated by TDC Chapter 71 (Wetlands Protection District) and TDC Chapter 72 (Natural Resource Protection Overlay District).

The proposed amendments conform to Goal 5.

Goal 6 – Air, Water and Land Resources Quality

Finding:

The Oregon Department of Environmental Quality (DEQ) regulates air, water and land with Clean Water Act (CWA) Section 401 Water Quality, Water Quality Certificate, State 303(d) listed waters, Hazardous Wastes, Clean Air Act (CAA), and Section 402 NPDES Construction and Stormwater Permits. The Oregon Department of State Lands and the U.S. Army Corps of Engineers regulate jurisdictional wetlands and CWA Section 404 water of the state and the country respectively. Clean Water Services (SWC) coordinates storm water management, water quality and stream enhancement projects throughout the city. Future development will still need to comply with these state, national and regional regulations and protections for air, water and land resources. Tualatin has an acknowledged Comprehensive Plan that complies with this goal. The PTA does not include proposed changes to TDC Chapter 63 (Industrial Uses and Utilities and Manufacturing Zones - Environmental Regulations).

The proposed amendments conform to Goal 6.

Goal 7 – Areas Subject to Natural Disasters and Hazards

Finding:

Tualatin has an acknowledged Comprehensive Plan that complies with this goal. This proposed amendments do not modify the City's natural hazards requirements. This proposal does not modify the existing goals and policies. The proposed amendments do not affect policies associated with Goal 7 established by the Comprehensive Plan. Approval of the proposed amendments will not eliminate the requirement for future development to meet the requirements of the Chapters 70 and 72 of the Tualatin Development Code.

The proposed amendments conform to Goal 7.

Goal 8 – Recreation Needs

To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

Finding:

Tualatin's recreation needs, as well as those of the citizens of the state and visitors thereto, are addressed in the 2019 Tualatin Parks and Recreation Master Plan into the Comprehensive Plan, also in 2019 (Ordinance 1427-19). The proposed amendments do not affect policies associated with recreational needs.

The proposed amendments conform to Goal 8.

Goal 9 – Economy of the State

To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

Finding:

The proposed amendments do not affect policies, lands, or opportunities associated with Goal 9 established by the Comprehensive Plan.

The proposed amendments conform to Goal 9.

Goal 10 – Housing

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

Finding:

The proposed amendments are intended to update the Tualatin Development Code to comply with the requirements of HB 2001, which include providing for a greater diversity of housing opportunity in Tualatin. Compliance with Goal 10 for cities within the Portland Metropolitan Urban Growth Boundary, like Tualatin, is analyzed in greater detail through compliance with OAR Chapter 660 Division 7. Findings addressing this OAR are found below.

The proposed amendments conform to Goal 10.

Goal 11 – Public Facilities and Services

Finding:

The proposed amendments do not affect policies related to public facilities and services including water, sewer, and emergency services.

The proposed amendments conform to Goal 11.

Goal 12 – Transportation

Finding:

The proposed amendments do not include changes to the Comprehensive Plan or Development Code standards related to transportation. The only change to TDC Chapter 75 (Access Management) would update driveway width and spacing standards to reflect unique situations that can be presented with townhomes and attached dwellings. Because the proposed amendments are intended to implement the state's middle housing code requirements, OAR 660-046-0030 (Implementation of Middle Housing Ordinances) applies. This OAR provides that "When a local government amends its comprehensive plan or land use regulations to allow Middle Housing, the local government is not required to consider whether the amendments significantly affect an existing or planned transportation facility." Accordingly, the proposed amendments do not include an evaluation of middle housing dwelling types on the City's transportation system, though they are not anticipated to be "significant" as defined by Goal 12 and its implementing OAR.

The proposed amendments conform to Goal 12 and satisfy the applicable OAR requirements.

Goal 13 – Energy

Findings:

The proposed amendments do not include any changes that are related to or intended to impact Tualatin's land use regulations pertaining to energy consumption.

The proposed amendments conform to Goal 13.

B. Oregon Administrative Rules

OAR Chapter 660, Division 46 Middle Housing in Medium and Large Cities

660-046-0010 Applicability

- (1) A local government that is a Medium City or Large City must comply with this division.**
- (2) Notwithstanding section (1), a Medium or Large City need not comply with this division for:**
 - (a) Lots or Parcels that are not zoned for residential use, including but not limited to Lots or Parcels zoned primarily for commercial, industrial, agricultural, or public uses;**
 - (b) Lots or Parcels that are Zoned For Residential Use but do not allow for the development of a detached single-family dwelling; and**
 - (c) Lots or Parcels that are not incorporated and that are zoned under an interim zoning designation that maintains the land's potential for planned urban development.**

Finding:

The City of Tualatin is classified as a Large City based on population data from the 2020 US Census with a population of 27,942. The proposed amendments are designed to comply with the provisions of HB 2001 (OAR 660 Division 46). DLCDC staff has worked closely with the City and its consultant to ensure that the proposed amendments meet these requirements. Further, DLCDC was provided formal notice of the proposed amendments on October 14, 2021, and, to date, has not submitted comments.

The proposed amendments comply with OAR 660 Division 46.

660-007-0030: New Construction Mix

- (1) Jurisdictions other than small developed cities must either designate sufficient buildable land to provide the opportunity for at least 50 percent of new residential units to be attached single family housing or multiple family housing or justify an alternative percentage based on changing circumstances. Factors to be considered in justifying an alternate percentage shall include, but need not be limited to:**
 - (a) Metro forecasts of dwelling units by type;**
 - (b) Changes in household structure, size, or composition by age;**
 - (c) Changes in economic factors impacting demand for single family versus multiple family units; and**
 - (d) Changes in price ranges and rent levels relative to income levels.**
- (2) The considerations listed in section (1) of this rule refer to county-level data within the UGB and data on the specific jurisdiction.**

[...]

Finding:

The proposed amendments would allow for the opportunity for new residential units to attached single housing and multi-family housing of up to four units in virtually all of its buildable residential lands. Further, Tualatin's Comprehensive Plan has previously been acknowledged as being in compliance with these sections. The proposed amendments are consistent with these requirements.

660-007-0035: Minimum Residential Density Allocation for New Construction

The following standards shall apply to those jurisdictions which provide the opportunity for at least 50 percent of new residential units to be attached single family housing or multiple family housing:

[...]

- (2) Clackamas and Washington Counties, and the cities of Forest Grove, Gladstone, Milwaukie, Oregon City, Troutdale, Tualatin, West Linn and Wilsonville must provide for an overall density of eight or more dwelling units per net buildable acre.**

[...]

Finding:

The proposed Middle Housing amendments would not impact the minimum residential density allocation for new construction which meet this standard. Tualatin’s Comprehensive Plan has previously been acknowledged as being in compliance with these sections. The proposed amendments are consistent with these requirements.

660-012-0060

Plan and Land Use Regulation Amendments

(1) If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:

(a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);

(b) Change standards implementing a functional classification system; or

(c) Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.

(A) Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;

(B) Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or

(C) Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.

[...]

Finding:

As discussed above under Goal 12, the proposed amendments are amendments to the City’s land use regulations. Because OAR 660-046-0030 (Implementation of Middle Housing Ordinances) applies, the proposed amendments are considered to not have a “significant” impact for the purposes of the above section. The proposed amendments are consistent with these requirements.

C. Metro Chapter 3.07, Urban Growth Management Functional Plan

**The following Chapters and Titles of Metro Code are applicable to the proposed amendments:
Chapter 3.07, Urban Growth Management Functional Plan**

Title 7 – Housing Choice

This voluntary section of the functional plan will ensure that all cities and counties in the region are providing opportunities for affordable housing for households of all income levels.

Finding:

The proposed amendments support the opportunity for additional development of housing types that may be affordable to households of all income levels. The proposed amendments are consistent with Title 7.

E. Tualatin Development Code

Chapter 32: Procedures

TDC 32.010. - Purpose and Applicability.

(2) Applicability of Review Procedures. All land use and development permit applications and decisions, will be made by using the procedures contained in this Chapter. The procedure "type" assigned to each application governs the decision-making process for that permit or application. There are five types of permit/application procedures as described in subsections (a) through (e) below. Table 32-1 lists the City's land use and development applications and corresponding review procedure(s).

(e)

Type IV-B Procedure (Legislative Review). The Type IV-B procedure is used to review proposals to amend the Tualatin Comprehensive Plan, the City's land use regulations, and large-scale changes to the Comprehensive Plan or Plan Maps, and involve the creation, revision, or implementation of broad public policy. Type IV-B reviews are first considered by the Planning Commission, which makes a recommendation to City Council. City Council makes the final decision on a legislative proposal through the enactment of an ordinance. Appeals of Type IV-B decisions are heard by the Land Use Board of Appeals (LUBA).

(3)

Determination of Review Type. Unless specified in Table 32-1, the City Manager will determine whether a permit or application is processed as Type I, II, III, IV-A or IV-B based on the descriptions above. Questions regarding the appropriate procedure will be resolved in favor of the review type providing the widest notice and opportunity to participate. An applicant may choose to elevate a Type I or II application to a higher numbered review type, provided the applicant pays the appropriate fee for the selected review type.

Table 32-1—Applications Types and Review Procedures

EXPAND

Application/Action	Procedure Type	Decision Body*	Appeal Body*	Pre-Application Conference Required	Neighborhood/ Developer Mtg Required	Applicable Code Chapter
Plan Amendments						
• Legislative Map or Text Amendments	IV-B	CC	LUBA	No	No	TDC 33.070

* City Council (CC); Planning Commission (PC); Architectural Review Board (ARB); City Manager or designee (CM); Land Use Board of Appeals (LUBA).

Finding:

The proposed application is a text amendment to the Tualatin Development Code. The proposed amendments are legislative in nature as they apply to broad areas of the City, as opposed to specific properties. The proposed application is being processed in accordance with the Type IV-B procedures. These criteria are met.

TDC 32.250. - Type IV-B (Legislative Decisions).

Type IV-B decisions are legislative land use decisions made by the City Council. Legislative land use proceedings include proposals to amend the Tualatin Comprehensive Plan and zoning maps, and involve the creation, revision, or implementation of broad public policy generally impacting more than

one property owner or a large number of individual properties. The City Council may initiate its own legislative proposals at any time. Legislative requests are not subject to the 120-day review period under ORS 227.178. In most cases a public hearing is required. However, no public hearing is required in a legislative land use proceeding if the purpose of the amendment is to conform to new requirements in state land use statutes, Statewide Land Use Planning Goals, or administrative rules of the Oregon Land Conservation and Development Commission implementing state land use statutes or Statewide Land Use Planning Goals, if the Oregon Department of Land Conservation and Development confirms in writing that the only effect of the proposed change is to conform the City's Comprehensive Plan or land use regulations to the new state requirements. The Council may, in its discretion, hold a public hearing although one is not required.

(1) *Submittal Requirements—Type IV-B.* Legislative land use proceedings may be initiated by the City Council or City staff.

(2) *Notice of Public Hearing—Type IV-B.* Hearings on Legislative Land Use requests must conform to state land use laws (ORS 227.175), as follows:

(a) *DLCD Pre-Adoption Notice.* The City Manager will notify in writing the Oregon Department of Land Conservation and Development (DLCD) of legislative amendments (zone change, rezoning with annexation, or comprehensive plan amendment) in accordance with the minimum number of days required by ORS Chapter 197.

[...]

(c) *Other Public Notice.* In addition to any other notice required, at least 14 calendar days before the scheduled City Council public hearing date, the City must mail by regular first class mail Notice of a Public Hearing to the following individuals and agencies.

(i) Any affected governmental agency;

(ii) Any person who requests notice in writing;

(iii) For a zone change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175;

(iv) Designated representatives of recognized Citizen Involvement Organizations;

(v) For an amendment which affects the transportation system, ODOT and Metro; and

(vi) For a plan amendment or land use regulation amendment that significantly impacts school capacity, the Tigard-Tualatin School District.

(d) At least 14 calendar days before the scheduled City Council public hearing date, public notice must be provided by publication in a newspaper of general circulation in the city.

(e) At least 14 calendar days before the scheduled City Council public hearing date, public notice must be posted in two public and conspicuous places within the City.

[...]

Finding:

As discussed in response to the previous criterion, the proposed amendments are legislative in nature and have been processed consistent with the Type IV-B requirements. The City Council has initiated the proposed amendments, and City staff has followed the appropriate notification procedures including DLCD pre-notice, "other public notice," newspaper notice, and posted notice. These criterion are met.

(4) *Conduct of the Hearing—Type IV-B.* A Type IV-B land use hearing will follow the City's legislative hearing procedures. There can be pre-hearing contact between citizens and the decision makers on legislative matters. "Ex parte contact" is not a concern.

(5) *Notice of Adoption and Effective Date of a Type IV-B Decision.*

(a) Notice of Adoption must be mailed to the applicant, all participants of record, and the Department of Land Conservation and Development within 20 business days after the City Council decision is filed with the City Manager. The City must also provide notice to all persons as required by other applicable laws.

(b) A Legislative Land Use decision, if approved, takes effect and becomes final as specified in the enacting ordinance or, if not approved, upon mailing of the Notice of Adoption to the applicant.

Finding:

The City Council will hold a public hearing on December 13, 2021 to consider the Planning Commission's recommendation on the proposed amendments, consistent with the above requirements. If adopted, a notice of adoption will be mailed and effective consistent with the above provisions. These criteria can be met.

Chapter 33: Applications and Approval Criteria

Section 33.070 Plan Amendments

[...]

(2) Applicability. [...] Legislative amendments may only be initiated by the City Council.

(3) Procedure Type.

(b) Map or text amendment applications which are legislative in nature are subject to Type IV-B Review in accordance with TDC Chapter 32.

Finding:

The proposed amendments are legislative in nature, in that they apply broadly across the City. The application has been processed consistent with the Type IV-B Review requirements in accordance with Chapter 32, which include publishing a newspaper notice at least 14 days prior to the City Council hearing, sending notice to the state DLCDC. These criteria have been satisfied.

(5) Approval Criteria.

(a) Granting the amendment is in the public interest.

Finding:

The proposed amendments are intended to satisfy the HB 2001 "middle housing" code requirements which applicable to Tualatin. The implementing rules for these requirements do allow cities the option to simply accept a "model code" in lieu of adopting a local code. Based on feedback from the community and Planning Commission and direction from the City Council, on its behalf staff applied for and received a grant award of code development assistance from a private consultant (MIG) to draft a code tailored to the needs of Tualatin. As discussed above, this draft code which resulted in the proposed amendments incorporated feedback from the community, Planning Commission and Council. Therefore, granting the proposed amendments, as opposed to having the state's model code apply, is in the public interest. This criterion is met.

(b) The public interest is best protected by granting the amendment at this time.

Finding:

The public interest is best protected by granting the amendment at this time. As discussed at the previous criterion, the amendment is in the public interest. Failure to timely adopt the proposed amendments would result in application of the state's model code on July 1, 2022. Therefore, granting the proposed amendments at this time would leave a comfortable time buffer between their adoption and the ultimate requirements. Further, because the amendments also serve to satisfy existing Comprehensive Plan goals and policies around provision of a greater mix of housing types, they can also be seen as being timely, irrespective of the state's timeline for middle housing code adoption. This criterion is met.

(c) The proposed amendment is in conformity with the applicable objectives of the Tualatin Community Plan.

Finding:

The proposed amendments are in conformity with the following applicable objectives of the Tualatin Community Plan, also known as the Comprehensive Plan:

- *POLICY 3.1.4 CLEAR AND OBJECTIVE REVIEW. Provide for clear and objective review standards for all residential development and redevelopment.*
- *POLICY 3.2.1 HOUSING TYPE DIVERSITY. Support development of townhomes, duplexes, triplexes, quadplexes, cottages, courtyard housing, accessory dwelling units, single story units, senior housing, and extended family and multi-generational housing in all residential zoning districts.*

The proposed amendments include changes the Development Code to eliminate existing code provisions that are not compliant with the “clear and objective review” objective. The proposed amendments are specifically designed to meet the requirements of HB 2001 as well as the “housing type diversity” objectives of the Comprehensive Plan by including the above listed housing types as Permitted uses in all residential zoning districts. Therefore, the proposed amendments are in conformity with the Tualatin Community Plan and this criterion is met.

(d) The following factors were consciously considered:

(i) The various characteristics of the areas in the City;

(ii) The suitability of the areas for particular land uses and improvements in the areas;

Finding:

The proposed amendments do not affect specific geographic areas of the City, and therefore do not impact nor are based on characteristics of areas of the city or suitability of the areas of the city for particular land uses and improvements. To the extent permitted by state law, the proposed amendments include design requirements for development of new middle housing based on the design standards for existing single family housing neighborhoods located within the City. Therefore, the various characteristics of the areas of the City were consciously considered. The proposed amendments require allowing for middle housing types in all residential areas of the City. Therefore, the suitability of areas for particular land uses was considered but these criterion are not applicable.

(iii) Trends in land improvement and development;

Finding:

The proposed amendments would implement HB 2001 Middle Housing for Large Cities. To the extent that the proposed amendments include the opportunity for a greater diversity of housing types throughout the City, particularly in areas where they might not have been outright Permitted, would help address needs identified in Tualatin’s 2019 Housing Need Analysis, which is the most recent and applicable evaluation of trends in land improvement and development with regard to housing. Therefore, the proposed amendments have consciously considered trends in land improvement and development and this criterion is met.

(iv) Property values;

Finding:

The proposed amendments do not directly impact or change property values. Instead, they do allow for a greater number of potential Permitted land uses on a given lot or parcel within the City, which may increase its value. However, because allowing for these additional housing types is required by the state rules, these factors were consciously considered but this criterion is not applicable.

(v) The needs of economic enterprises and the future development of the area; needed right-of-way and access for and to particular sites in the area;

Finding:

The proposed amendments do not directly impact the needs of economic enterprises as they are not applicable in Employment areas of the City, and were consciously considered but this criterion is not applicable. Additionally, needed right-of-way and access for it to particular sites in the area was consciously considered, although the proposed amendments are legislative in nature and not site specific and therefore this criterion is not applicable.

(vi) Natural resources of the City and the protection and conservation of said resources;

(vii) Prospective requirements for the development of natural resources in the City;

Finding:

The proposed amendments do not impact natural resource protection nor application of requirements to future development, which would fully apply to any new development. Therefore, these factors were consciously considered but this criterion is not applicable.

(viii) The public need for healthful, safe, esthetic surroundings and conditions;

Finding:

The proposed amendments do not impact regulations governing public need for healthful, safe, or esthetic surroundings and conditions. As such, these factors were consciously considered but this criterion is not applicable.

(e) If the amendment involves residential uses, then the appropriate school district or districts must be able to reasonably accommodate additional residential capacity by means determined by any affected school district.

Finding:

Both Tualatin-Tigard and Sherwood School districts were provided notice of the proposed amendments in accordance with TDC Chapter 32. Neither district has submitted comments regarding the proposed amendments. There are no changes proposed that would increase or decrease the amount of residentially zoned property. Therefore, school district ability to accommodate any added residential capacity resulting from the proposed amendments was consciously considered.

(f) Granting the amendment is consistent with the applicable State of Oregon Planning Goals and applicable Oregon Administrative Rules, including compliance with the Transportation Planning Rule TPR (OAR 660-012-0060).

Finding:

Discussion of State of Oregon Planning Goals and applicable Oregon Administrative Rules is found in Sections II-A and B of these findings and find consistency. No map amendments or amendments to residential densities or housing types or to intensities of permitted non-residential uses are proposed. Therefore compliance and consistency with applicable state transportation planning regulations was consciously considered. This criterion is met.

(g) Granting the amendment is consistent with the Metropolitan Service District's Urban Growth Management Functional Plan.

Finding:

The proposed amendments will remain consistent with Titles 1-14 of the Metro Urban Growth Management Functional Plan as discussed in Section II-C of these findings. Therefore, these requirements were consciously considered. This criterion is met.

(h) Granting the amendment is consistent with Level of Service F for the p.m. peak hour and E for the one-half hour before and after the p.m. peak hour for the Town Center 2040 Design Type (TDC Map 9-4), and E/E for the rest of the 2040 Design Types in the City's planning area.

Finding:

The proposed changes do not impact level of service for transportation facilities. This factor was consciously considered but is not applicable.

(i) Granting the amendment is consistent with the objectives and policies regarding potable water, sanitary sewer, and surface water management pursuant to TDC 12.020, water management issues are adequately addressed during development or redevelopment anticipated to follow the granting of a plan amendment.

[...]

Finding:

The proposed changes do not impact objectives and policies regarding the above referenced utilities. These factors were consciously considered but this criterion is not applicable.



City of Tualatin

CITY OF TUALATIN Staff Report

TO: Honorable Mayor and Members of the City Council
THROUGH: Sherilyn Lombos, City Manager
FROM: Mike McCarthy, Principal Transportation Engineer
DATE: December 13, 2021

SUBJECT:
Tualatin Moving Forward Fourth Annual Report

EXECUTIVE SUMMARY:

In 2018, Tualatin voters approved a \$20 million transportation bond to pay for projects that improve traffic flow, neighborhood safety, and provide safe access to schools and parks citywide. More than 35 bond-funded projects will be completed by 2023.

With this Fourth Annual Report, 20 projects are built and 14 more are underway in every corner of the City. This report highlights the completion of the Garden Corner Curves signature project and four of the Neighborhood Traffic Safety Program projects selected in 2020. It also introduces the five new Neighborhood Traffic Safety Program projects that will be constructed in 2022 and 2023 as well as the Boones Ferry Corridor Sidewalk and Bike Lane Project which will also begin construction next year.

A copy of the report will be mailed to all Tualatin residents.

ATTACHMENTS:

- PowerPoint Presentation
- Fourth Annual Report

FOURTH Annual Report

December 2021



Our Fourth Year is the Best Yet!

November 20, 2021 – what a great day it was to celebrate the reopening of Garden Corner Curves!

For more than a decade, community members have expressed concerns about this dangerous, curvy route that lacked sidewalks and bike lanes. Former City Councilor Robert Kellogg became involved in Tualatin civic life as the Ibach CIO's president, promoting solutions for his neighborhood's #1 priority – Garden Corner Curves.

Now, after two years of construction, we can all see the finished result was worth the wait. The project provides major upgrades to the corridor that follows SW 105th Avenue/Blake Street/108th Avenue between Avery and Willow Streets. Improvements in the Garden Corner Curves corridor include a new shared use path, flashing beacons at Moratoc Drive and Blake/108th, a high visibility raised crossing, and a driver feedback sign that displays vehicle speed. The expected result will be a good place for people to safely drive, walk or ride their bikes.

You can view a charming video tribute produced by Jonn Karsseboom, the project's closest neighbor. Go to Jonn's website for the Garden Corner nursery: www.thegardencorner.com

This was only one of the transportation projects made possible by the Tualatin Moving Forward bond program approved by voters in May 2018. Today, there are 20 projects completed and another 14 underway all across the City. Another milestone to celebrate soon is upgrading the intersection at Martinazzi Avenue and Sagert Street where a new traffic signal will help unsnarl traffic congestion. That project is nearing completion, too.

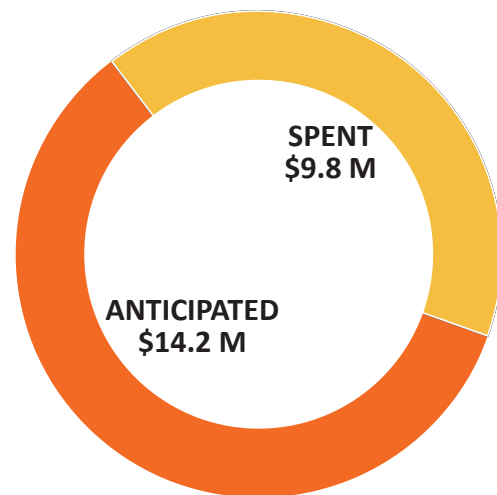
We hope you will take a look inside this report and see what else is going on.



Sherilyn Lombos
City Manager



Mike McCarthy, P.E.
Bond Program Director



Tualatin Moving Forward
Project Investments
(\$24 Million Total)

Just Around the Corner

In October, the Tualatin City Council approved five Neighborhood Traffic Safety Projects to be constructed in 2022 and 2023. This program invites community members to suggest traffic safety improvements in their neighborhoods, using the "suggest a project" feature at TualatinMovingForward.com.

The five Neighborhood Traffic Safety Projects to be constructed in 2022/2023:

- Avery St. at Tualatin-Sherwood Rd:* Fill a 300-foot sidewalk gap along the south side of Avery St.
- Martinazzi Ave. at Mohawk St:* Install pedestrian-activated flashing beacons to the crosswalk on Mohawk St.
- 67th/68th Avenues loop at Stoneridge Park:* Add pedestrian improvements as identified by community members
- Martinazzi Ave at Fred Meyer Driveway:* Upgrade corners and bus stop to meet ADA standards
- Sagert St. Bridge/I-5 Walkway:* Install improvements to help people walking and biking across the bridge

Another multi-year project that starts in 2022 is the Boones Ferry Corridor sidewalk and bike lane project. This extends all along Boones Ferry Rd from Tualatin-Sherwood Rd (at the north end) to Iowa St (in the south). Planned improvements will include:

- Adding missing sidewalk segments and repairing existing sidewalks
- Reconstructing curb ramps to meet accessibility standards
- Center turn lanes
- Installing new pedestrian-activated flashing signals and crosswalks
- Adding striped bike lanes

Learn More

For up-to-date information or to suggest a project go to www.tualatinmovingforward.com

Garden Corner Curves
reopening



City of Tualatin



Inside

- ✓ Updated Project Map and photos
- ✓ Report Card: follow our progress on projects and budget
- ✓ Just Around the Corner: upcoming projects
- ✓ Learn More: go to www.tualatinmovingforward.com



**Photo Album:
Built!**



Garden Corner Curves



Boones Ferry Rd at Arapaho St



Hazelbrook Rd Crossing



Nyberg Ln at 57th Ave



Sagert St at 72nd Ave

**Tualatin Moving Forward Report Card
December 2021**

BUILT ESTIMATED COST

115th Ave: Tualatin Rd to Hazelbrook Rd	\$15,100
90th Ave and Sweek Dr	\$115,000
90th Ave Near Kaiser Permanente	\$102,000
Avery St: Boones Ferry Rd to Martinazzi Ave	\$31,100
Boones Ferry Rd at Arapaho St	\$100,000
Boones Ferry Rd at High School	\$616,000
Boones Ferry Rd at Siletz Dr	\$297,500
Boones Ferry Rd at Tualatin Commons	\$121,000
Borland Rd: Bridgeport Elementary to 60th Ave	\$104,600
Garden Corner Curves: Moratoc Dr to Willow St	\$3,384,000
Grahams Ferry Rd at Dogwood St	\$190,000
Hazelbrook Rd Crossing	\$106,000
Ibach St at Ibach Park	\$85,500
Martinazzi Ave: between Avery St and Dakota Dr	\$25,300
Mohawk St: East of Martinazzi Ave at PGE	\$22,700
Nasoma Ln: near Marquis Assisted Living	\$97,000
Nyberg Ln at 57th Ave	\$150,000
Sagert St at 72nd Ave	\$90,000
Sagert St at Atfalati Park	\$86,200
Tualatin Road: between 105th Ave and 115th Ave	\$141,700

UNDERWAY

50th Ave and Wilke St	\$122,000
65th Ave near Meridian Park Hospital	\$251,000
95th Ave and Avery St (Tualatin Elementary School)	\$901,000
Boones Ferry Corridor Sidewalk and Bike Lane Project	\$7,000,000
Hazelbrook Area	\$785,000
Hwy 99W: Pony Ridge Neighborhood to 124th Ave	\$896,000
Martinazzi Ave and Sagert St	\$1,700,000
Stormwater Mitigation	\$1,016,000
Tualatin Rd: Sweek Dr to Community Park	\$665,000
Tualatin-Sherwood Rd: Martinazzi Ave to I-5	\$2,312,000

FUTURE

67th/68th Avenues loop at Stoneridge Park	\$150,000
Avery St. at Tualatin-Sherwood Rd	\$100,000
Boones Ferry Rd at The Commons Phase 2	\$150,000
Martinazzi Ave at Fred Meyer Driveway	\$100,000
Martinazzi Ave. at Mohawk St	\$100,000
Sagert St. Bridge/I-5 Walkway	\$70,000



FOURTH

Annual Report

**City Council
December 13, 2021**

FOURTH Annual Report



City of Tualatin

- ***Tonight: update on our fourth year – “The Best Yet”***
- ***Highlight upcoming projects: “Just Around the Corner”***
- ***Next quarterly report: Spring 2022***
- ***Monitor progress at TualatinMovingForward.com***

2018

May 15

Election Night – Measure 34-282 approved by voters

August 8

Bonds sold at a premium, providing additional program funds

September

First project completed

2019

January

Program manager on board; team in place

January-May

Three more projects completed

2020

January-December

10 more projects completed;
8 projects underway

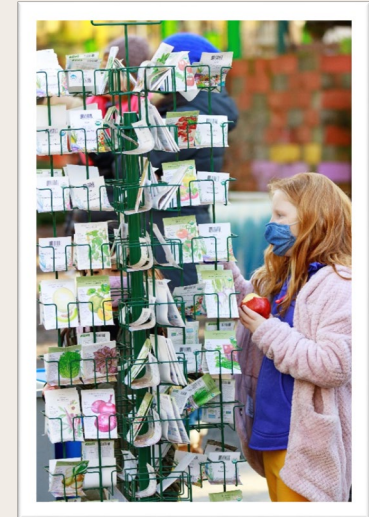
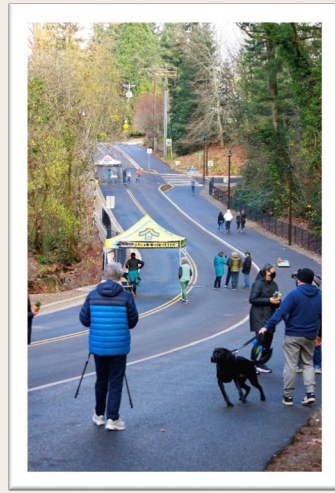
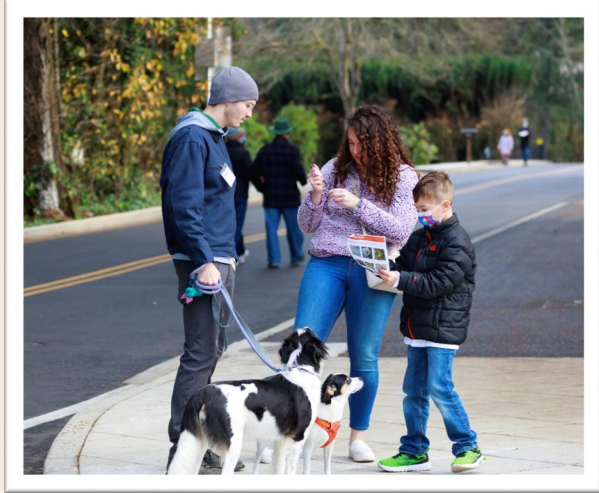
2021

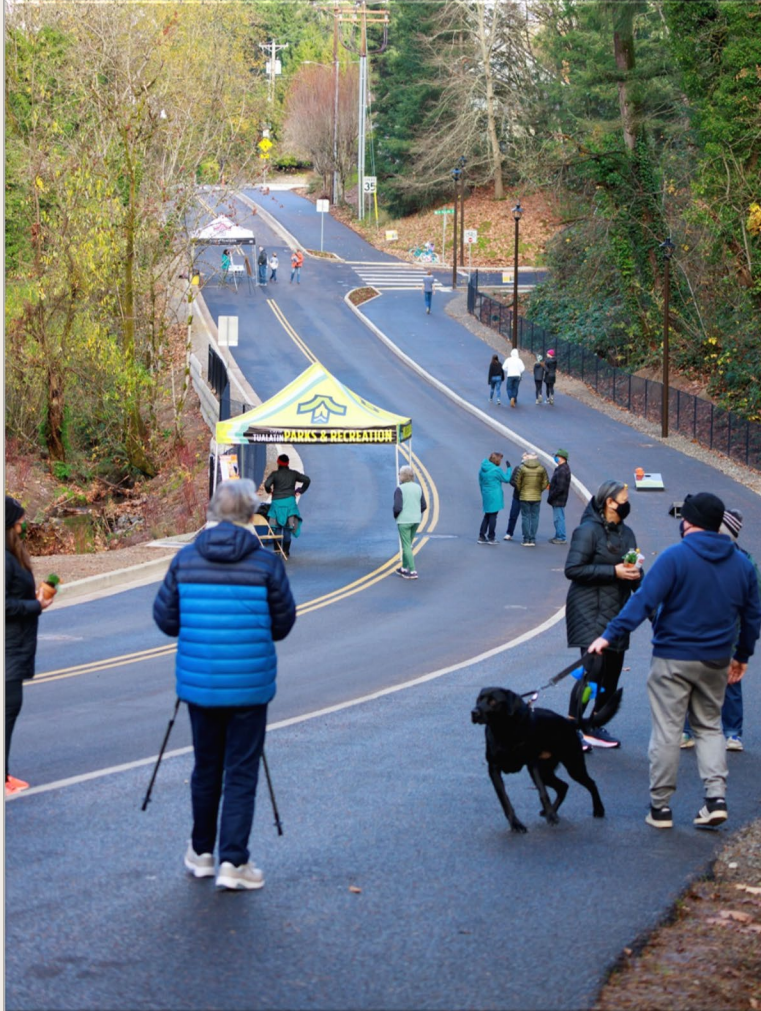
January-December

6 more projects completed;
14 more projects underway



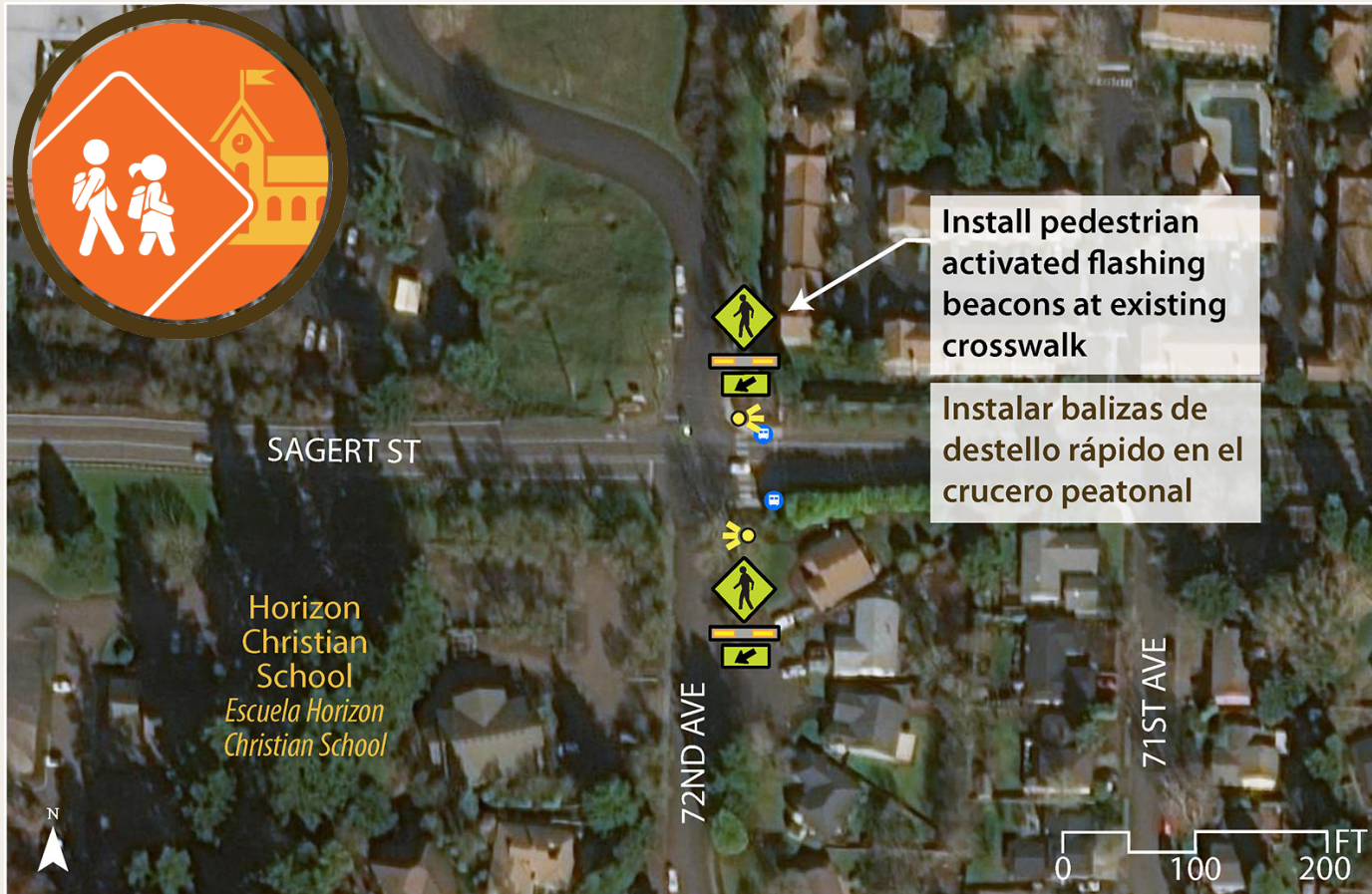






105th Ave/Blake St/108th Ave between Avery and Willow

- ✓ New – *much safer* – shared use path
- ✓ Pedestrian-activated flashing beacons
- ✓ High-visibility crossings
- ✓ Driver feedback sign
- ✓ Stream protected for fish passage

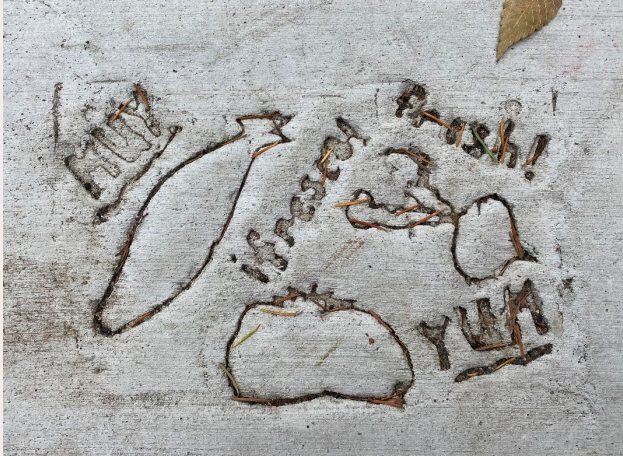


- ✓ Added a pedestrian-activated flashing beacon at the crosswalk
- ✓ Safe access to Horizon Christian School and TriMet transit stops

- ✓ 95th Ave and Avery St – Phase 1
- ✓ Tualatin Rd: Sweek Dr to Community Park – Phase 1
- ✓ 2021 NTSP Projects
 - Boones Ferry Rd at The Commons
 - Boones Ferry Rd at Arapaho St
 - Hazelbrook Rd at Jurgens Park
 - Nyberg Ln at 57th Ave

- ✓ Add a traffic signal to replace stop signs
- ✓ New sidewalks and crosswalks
- ✓ Improve bike lane striping
- ✓ Project completion in 2022





“Unnamed” by Monica Robertson



“Unnamed” by Derek Wilfong



“The Happy Deer” by Timothy McCarthy

Other Sidewalk Artwork on Display (Not Pictured Here)

“Unnamed” by Cassidy Wilfong

“Unnamed” by Chyna Haider

“Unnamed” by Cora Wilfong

“Cabbage” by Emma Brockway

“Alpaca Party” by Jenny Read Stout

“Good Boy” by KC Wilson

“Sugar Skull” by Maya Payne

“Doves” by Arturo Villasenor

“Sun and Moon” by Allison Craner

“Mastodon” by David Damian Jaimes

Boones Ferry Corridor Sidewalk and Bike Lane Project

- Add missing sidewalk segments and repair existing sidewalks and paths
- Reconstruct curb ramps to meet accessibility standards
- Install new pedestrian-activated flashing beacons and crosswalks
- Create continuous buffered bike lanes



- ✓ **Avery St. at Tualatin-Sherwood Rd:** Fill a 300-foot sidewalk gap along the south side of Avery St.
- ✓ **Martinazzi Ave. at Mohawk St:** Install pedestrian-activated flashing beacons at the crosswalk across Martinazzi Ave.
- ✓ **67th/68th Avenues loop at Stoneridge Park:** Add pedestrian improvements as identified by community members
- ✓ **Martinazzi Ave at Fred Meyer Driveway:** Upgrade corners and bus stop to meet ADA standards
- ✓ **Sagert St. Bridge/I-5 Walkway:** Install improvements to help people walking and biking across the bridge

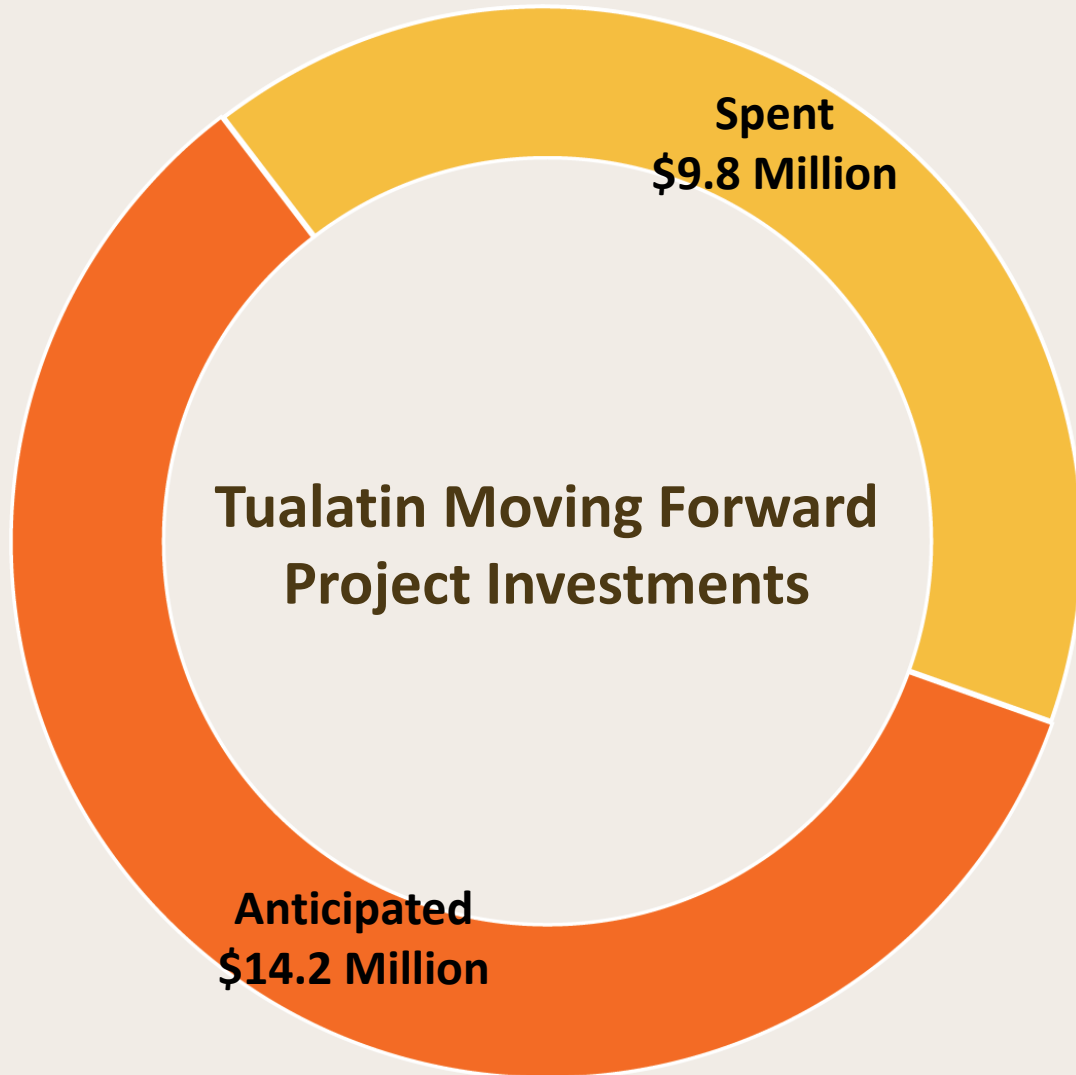
Tualatin Moving Forward Report Card – December 2021

BUILT	ESTIMATED COST
90th Ave and Sweek Dr	\$115,000
90th Ave Near Kaiser Permanente	\$102,000
115th Ave: Tualatin Rd to Hazelbrook Rd	\$15,100
Avery St: Boones Ferry Rd to Martinazzi Ave	\$31,100
Boones Ferry Rd at Arapaho St	\$100,000
Boones Ferry Rd at High School	\$616,000
Boones Ferry Rd at Siletz Dr	\$297,500
Boones Ferry Rd at Tualatin Commons	\$121,000
Borland Rd: Bridgeport Elementary to 60th Ave	\$104,600
Garden Corner Curves: Moratoc Dr to Willow St	\$3,384,000
Grahams Ferry Rd at Dogwood St	\$190,000
Hazelbrook Rd Crossing	\$106,000
Ibach St at Ibach Park	\$85,500
Martinazzi Ave: between Avery St and Dakota Dr	\$25,300
Mohawk St: East of Martinazzi Ave at PGE	\$22,700
Nasoma Ln: near Marquis Assisted Living	\$97,000
Nyberg Ln at 57th Ave	\$150,000
Sagert St at 72nd Ave	\$90,000
Sagert St at Atfalati Park	\$86,200
Tualatin Road: between 105th Ave and 115th Ave	\$141,700

UNDERWAY	
50th Ave and Wilke St	\$122,000
65th Ave near Meridian Park Hospital	\$251,000
95th Ave and Avery St (Tualatin Elementary School)	\$901,000
Boones Ferry Corridor Sidewalk and Bike Lane Project	\$7,000,000
Hazelbrook Area	\$785,000
Hwy 99W: Pony Ridge Neighborhood to 124th Ave	\$896,000
Martinazzi Ave and Sagert St	\$1,700,000
Stormwater Mitigation	\$1,016,000
Tualatin Rd: Sweek Dr to Community Park	\$665,000
Tualatin-Sherwood Rd: Martinazzi Ave to I-5	\$2,312,000

FUTURE	
67th/68th Avenues loop at Stoneridge Park	\$150,000
Avery St. at Tualatin-Sherwood Rd	\$100,000
Boones Ferry Rd at The Commons – Phase 2	\$150,000
Martinazzi Ave at Fred Meyer Driveway	\$100,000
Martinazzi Ave. at Mohawk St	\$100,000
Sagert St. Bridge/I-5 Walkway	\$70,000

Why \$24 Million?



- ✓ Total \$24+ million
 - ✓ Bonds sold at a premium
 - ✓ Interest earned on idle funds
- ✓ Additional funds must be spent for Tualatin Moving Forward program

Home > Local News > Tualatin Council Outlines 2021 Policy Priorities

Local News | Politics

Tualatin Council Outlines 2021 Policy Priorities

By Josh Kulla - April 1, 2021

Share 



The \$20 million Tualatin Moving Forward transportation bond will continue improving roads across the city in 2021, including the Garden Corner Curves shown here, and is one of the City Council's main priorities for this year. (COURTESY/BARNEY AND WORTH)

12/3/21, 11:53 AM

Pamplin Media Group - City celebrates reopening of Garden Corner Curves

City celebrates reopening of Garden Corner Curves

Ray Pitz November 19 2021

A Saturday celebration at the curves will include a marching band, a scavenger hunt, cider, donuts and more

Event Map & Schedule

STATION MAP



STATION ACTIVITIES

- 1 • Free Cider and Donuts
• Free Seed Packets and DIY Planting Station
• Event and Project Info
• Scavenger Hunt
- 2 • Raffle Tickets: Win a Gift Certificate to the Garden Corner Nursery
• Project Commemoration Speeches
• Learn about the new Shared Use Path
- 3 • Giant Bubble Show!
• Learn about the new Stormwater Facilities
- 4 • Games and Chalk Station
• Learn about the new Culvert
- 5 • Event and Project Info
• Free Seed Packets
• Scavenger Hunt
• Learn about the new Corridor Safety Improvements

FOURTH

Annual Report

En Español





City Council All-Electric Bus Tour – September 13, 2021

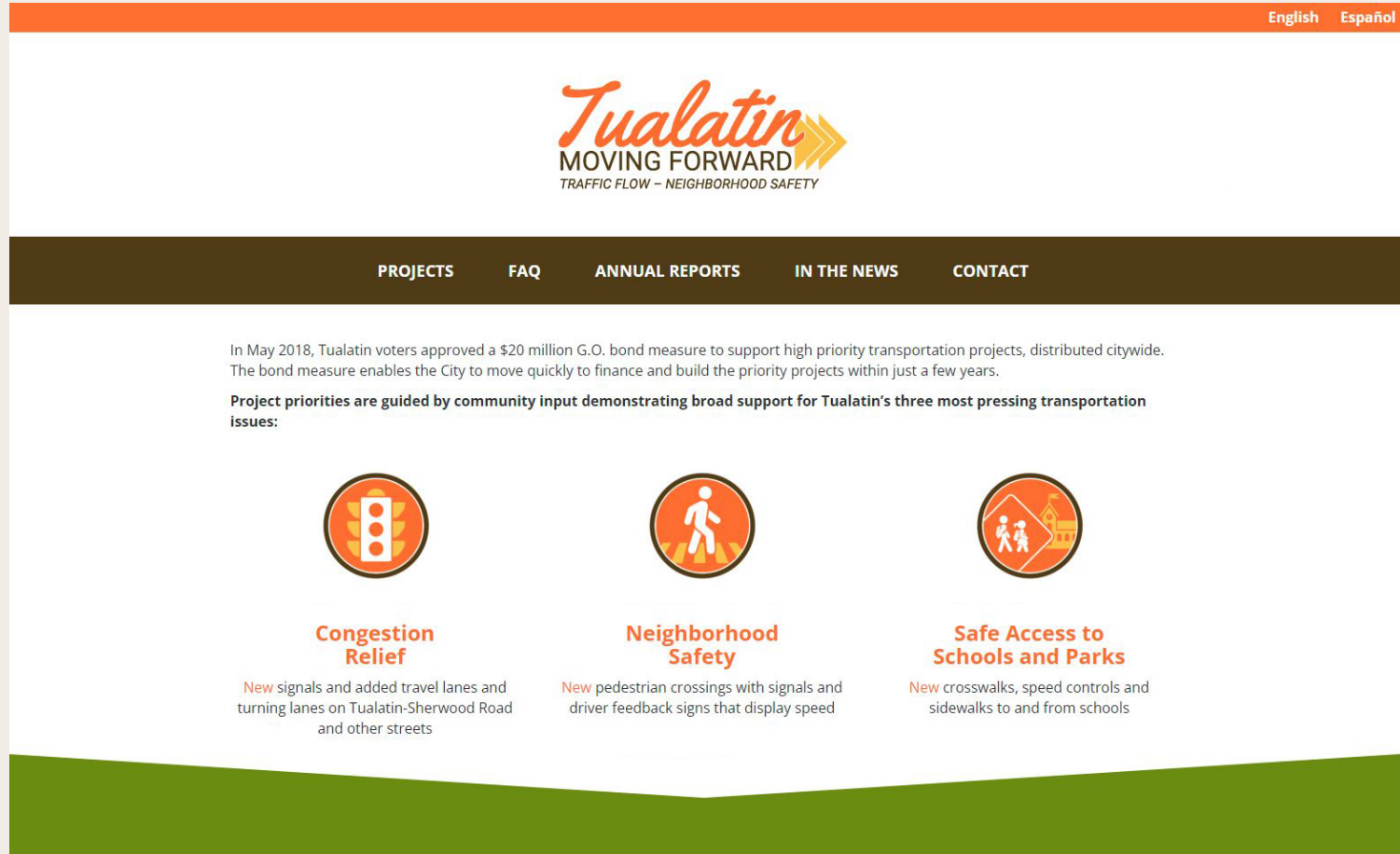


DISCUSSION





NEXT STEPS 




English Español


Tualatin
MOVING FORWARD
TRAFFIC FLOW – NEIGHBORHOOD SAFETY


PROJECTS FAQ ANNUAL REPORTS IN THE NEWS CONTACT

In May 2018, Tualatin voters approved a \$20 million G.O. bond measure to support high priority transportation projects, distributed citywide. The bond measure enables the City to move quickly to finance and build the priority projects within just a few years.

Project priorities are guided by community input demonstrating broad support for Tualatin's three most pressing transportation issues:

- 

Congestion Relief
New signals and added travel lanes and turning lanes on Tualatin-Sherwood Road and other streets
- 

Neighborhood Safety
New pedestrian crossings with signals and driver feedback signs that display speed
- 

Safe Access to Schools and Parks
New crosswalks, speed controls and sidewalks to and from schools



CITY OF TUALATIN

Staff Report

TO: Honorable Mayor and Members of the City Council
THROUGH: Sherilyn Lombos, City Manager
FROM: Sean Brady, City Attorney
DATE: December 13, 2021

SUBJECT:

Consideration of Resolution No. 5589-21, Authorizing the City Manager to Execute Settlement Documents Related to the National Opioid Litigation.

RECOMMENDATION:

Staff recommends Council adopt the resolution.

EXECUTIVE SUMMARY:

Resolution No. 5589-21 authorizes the City Manager to execute settlement documents related to the National Opioid Litigation. Signing the documents will allow the State of Oregon to receive up to a maximum of \$330 million, of which the City of Tualatin could receive up to a total maximum of \$227,613, to be distributed over approximately 18 years. Use of the funds is restricted to opioid abatement programs to provide intervention, treatment, education, and recovery services.

The resolution authorizes the City Manager to sign documents related to two separate settlements:

- McKesson, Cardinal Health and AmerisourceBergen (“Distributors”); and
- Janssen Pharmaceuticals, Inc., a manufacturer, and its parent company Johnson & Johnson (collectively “J&J”)

The settlement participation documents are attached as *Attachment A* (Distributors Participation Form) and *Attachment B* (J&J Participation Form).

The deadline for signing the settlement documents is January 2, 2022. If the settlement documents are not signed before that date, the City of Tualatin cannot participate in the National Settlement and the State of Oregon could receive reduced settlement funds.

In addition, an Allocation Agreement is being negotiated between the State of Oregon and all Oregon local governments to govern the distribution of Oregon’s portion of the National Settlement funds. Resolution No. 5589-21 also authorizes the City Manager to sign the

Allocation Agreement. The Allocation Agreement is still being negotiated, but the updated terms sheet is attached as *Attachment C* (Allocation Agreement Terms Sheet).

Below is a more detailed summary of the National Opioid Litigation, the terms and conditions of the National Settlement and State Allocation Agreement, the estimated settlement amount anticipated to be received, and the types of opioid abatement programs for which the funds can be used. Copies of all settlement documents, as well as additional information regarding the National Opioid Litigation, can be found at: <https://nationalopioidsettlement.com/>

1. National Opioid Litigation.

Ten Oregon counties, including Washington County, and the City of Portland joined state and local governments throughout the United States to sue the three largest pharmaceutical distributors: McKesson, Cardinal Health and AmerisourceBergen (“Distributors”), and manufacturer Janssen Pharmaceuticals, Inc. and its parent company Johnson & Johnson (collectively “J&J”). The various lawsuits throughout the nation were consolidated, and ultimately a National Settlement framework was negotiated.

The City of Tualatin is not a plaintiff in the national opioid litigation. However, the structure of the National Settlement framework allows for the City of Tualatin to participate and receive settlement funds. Furthermore, participation by the City of Tualatin enables the State of Oregon to receive more settlement funds than if the City of Tualatin did not participate.

2. National Settlement Terms.

The total amount to be paid to all states and local governments nationally is \$26 billion. Under the National Settlement, the Distributors agreed to pay \$21 billion over 18 years to all state and local governments and J&J agreed to pay \$5 billion over no more than nine years.

Under the National Settlement framework, each state must agree to the settlement terms and pass legislation to prohibit the local governments within its jurisdiction from filing future opioid-related lawsuits against the Distributors and J&J. In addition, in order for a state to receive the full value of the settlement funds, both litigating and non-litigating local governments in the state must agree to the settlement.

3. State of Oregon’s Share of the National Settlement.

The State of Oregon’s share of the National Settlement is \$330 million. However, in order to receive the full value of the settlement amount, the litigating local governments and non-litigating local governments must also agree to the settlement. To receive the full \$330 million, the incentive structure is as follows:

- Oregon receives a maximum of \$330 million
- All Litigating Entities must agree to the settlement
 - Up to a 25% reduction in settlement funds can occur if all Litigating Entities do not agree

- All Cities and Counties with a population greater than 30,000 must agree to the settlement
 - Up to a 15% reduction in the settlement funds can occur if all Cities and Counties with a population greater than 30,000 do not agree
- All Cities and Counties with a Population of less than 30,000 must agree to the settlement
 - Up to a 5% reduction in settlement funds can occur if all Cities and Counties with a population of less than 30,000 do not agree

4. Oregon Allocation Agreement.

Once Oregon receives the National Settlement funds, the next question is how to distribute the funds among the State, counties, and cities. To ensure local governments receive the funds directly, the litigating Oregon local governments have been negotiating with the State of Oregon on the terms of an Allocation Agreement for the disbursement of the National Settlement funds. The final terms and conditions are still being negotiated, but the general outline of the terms of the Allocation Agreement are as follows:

- 45% will be distributed to the State of Oregon
 - State will establish a Fund Distribution Board
 - State and local governments will have equal representation and voting on the Board
- 55% will be distributed directly to Local Governments
 - Must be used for opioid abatement consistent with the National Settlement terms and conditions
 - Amount disbursed to each local government will be based upon the allocation percentages in the National Settlement
 - Cities can choose to decline the money and elect that the money be directed to the county
- Allocation percentage (45% to the State of Oregon; 55% to Local Governments) will apply to future multistate opioid settlements with distributors, manufacturers, and pharmacies, and subject to other terms of the settlement
 - Allocation for the Purdue bankruptcy will only apply to Oregon's share under the plan confirmed by the judge and not apply to any increased amount paid to Oregon that may result from Oregon's appeal
- Allocation Agreement will not apply to other litigation brought by the State of Oregon as an individual state.
- Local Governments commit to cooperating in drafting and promoting passage of legislature to effectuate the agreement

A copy of the most recent Allocation Agreement Terms Sheet is attached as *Attachment C* (Allocation Agreement Terms Sheet).

5. Estimate of Future Funds Received by Tualatin.

Based on the National Settlement framework, it is estimated the City of Tualatin will receive a best-case scenario, maximum dollar amount of \$273,613. This is an estimated number only and would require all of the 81 eligible entities in Oregon to participate in the National Settlement. Additionally, the payments made by the Distributors will be made over 18 years and the payments made by J&J will be made over 9 years. Due to these uncertainties, the estimated dollar amount should not be relied upon to make decisions about use of funds or for future budget purposes.

6. Use of Opioid Settlement Funds.

The use of National Settlement funds is restricted to opioid abatement programs to provide intervention, treatment, education, and recovery services. The specific uses are outlined in the National Settlement documents and include the following categories:

- Naloxone or other FDA-approved drug to reverse opioid overdoses
- Medication-assisted treatment (“mat”) Distribution and other opioid-related treatment
- Assisting pregnant & postpartum women
- Expanding treatment for neonatal abstinence syndrome (“nas”)
- Expansion of warm hand-off programs (coordinated care) and recovery services
- Treatment for incarcerated population
- Drug Prevention programs
- Expanding syringe service programs
- Evidence-based data collection and research analyzing the effectiveness of the abatement strategies within the state

ATTACHMENTS:

- Resolution No. 5589-21
- Attachment A (Distributors Participation Form) and
- Attachment B (J&J Participation Form)
- Attachment C (Allocation Agreement Terms Sheet).

RESOLUTION NO. 5589-21

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE DOCUMENTS RELATED TO THE NATIONAL OPIOID SETTLEMENT.

WHEREAS, local governments have been on the frontlines of the opioid epidemic, which has devastated Oregon cities and counties and caused ongoing devastation by the uncontrolled and misleading distribution of millions of addicting opioid pills;

WHEREAS, over 3,000 lawsuits have been filed by cities and counties across the country against opioid manufacturers, distributors, and marketers of opioid drugs;

WHEREAS, ten Oregon counties and the City of Portland filed suit against McKesson, Cardinal Health and AmerisourceBergen (“Distributors”), and manufacturer Janssen Pharmaceuticals, Inc. and its parent company Johnson & Johnson (collectively “J&J”);

WHEREAS, the multiple lawsuits throughout the nation were consolidated and a National Settlement framework was negotiated to settle claims with the Distributors and J&J;

WHEREAS, it is estimated the State of Oregon will receive up to a maximum of \$330 million under terms of a National Settlement;

WHEREAS, to maximize the settlement funds for the State of Oregon, non-litigating local governments must agree to the National Settlement;

WHEREAS, the State of Oregon and local governments have further negotiated an Allocation Agreement to govern the distribution of Oregon’s portion of the National Settlement funds; and

WHEREAS, under the Allocation Agreement, the City of Tualatin could receive National Settlement funds if the City signs both the National Settlement documents and State Allocation Agreement.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, OREGON, that:

Section 1. The City Manager, in consultation with the City Attorney, is directed to review the terms and conditions of the National Settlement documents and State Allocation Agreement to determine if it is in the City’s best interest to participate in the National Settlement and State Allocation Agreement.

Section 2. If the City Manager determines it is in the City’s best interest to participate in the National Settlement and State Allocation Agreement, the City Manager is delegated the authority to sign the National Settlement documents, the State Allocation Agreement, and any other documents necessary to effectuate their purpose.

Section 3. This resolution is effective upon adoption.

Adopted by the City Council this ____ day of _____, 2021.

CITY OF TUALATIN, OREGON

BY _____
Mayor

APPROVED AS TO FORM

ATTEST:

BY _____
City Attorney

BY _____
City Recorder

EXHIBIT K

Subdivision Settlement Participation Form

Governmental Entity:	State:
Authorized Official:	
Address 1:	
Address 2:	
City, State, Zip:	
Phone:	
Email:	

The governmental entity identified above (“*Governmental Entity*”), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Settlement Agreement dated July 21, 2021 (“*Distributor Settlement*”), and acting through the undersigned authorized official, hereby elects to participate in the Distributor Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Distributor Settlement, understands that all terms in this Participation Form have the meanings defined therein, and agrees that by signing this Participation Form, the Governmental Entity elects to participate in the Distributor Settlement and become a Participating Subdivision as provided therein.
2. The Governmental Entity shall, within 14 days of the Reference Date and prior to the filing of the Consent Judgment, secure the dismissal with prejudice of any Released Claims that it has filed.
3. The Governmental Entity agrees to the terms of the Distributor Settlement pertaining to Subdivisions as defined therein.
4. By agreeing to the terms of the Distributor Settlement and becoming a Releasor, the Governmental Entity is entitled to the benefits provided therein, including, if applicable, monetary payments beginning after the Effective Date.
5. The Governmental Entity agrees to use any monies it receives through the Distributor Settlement solely for the purposes provided therein.
6. The Governmental Entity submits to the jurisdiction of the court in the Governmental Entity’s state where the Consent Judgment is filed for purposes limited to that court’s role as provided in, and for resolving disputes to the extent provided in, the Distributor Settlement. The Governmental Entity likewise agrees to arbitrate before the National Arbitration Panel as provided in, and for resolving disputes to the extent otherwise provided in, the Distributor Settlement.

7. The Governmental Entity has the right to enforce the Distributor Settlement as provided therein.
8. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the Distributor Settlement, including, but not limited to, all provisions of Part XI, and along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the Distributor Settlement are intended by the Parties to be broad and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The Distributor Settlement shall be a complete bar to any Released Claim.
9. The Governmental Entity hereby takes on all rights and obligations of a Participating Subdivision as set forth in the Distributor Settlement.
10. In connection with the releases provided for in the Distributor Settlement, each Governmental Entity expressly waives, releases, and forever discharges any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which reads:

General Release; extent. A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release, and that if known by him or her would have materially affected his or her settlement with the debtor or released party.

A Releasor may hereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Released Claims, but each Governmental Entity hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date, any and all Released Claims that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the Governmental Entities' decision to participate in the Distributor Settlement.

11. Nothing herein is intended to modify in any way the terms of the Distributor Settlement, to which Governmental Entity hereby agrees. To the extent this Participation Form is interpreted differently from the Distributor Settlement in any respect, the Distributor Settlement controls.

I have all necessary power and authorization to execute this Participation Form on behalf of the Governmental Entity.

Signature: _____

Name: _____

Title: _____

Date: _____

Attachment B
Resolution No. 5589-21

EXHIBIT K

Settlement Participation Form

Governmental Entity:	State:
Authorized Official:	
Address 1:	
Address 2:	
City, State, Zip:	
Phone:	
Email:	

The governmental entity identified above (“Governmental Entity”), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Settlement Agreement dated July 21, 2021 (“Janssen Settlement”), and acting through the undersigned authorized official, hereby elects to participate in the Janssen Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Janssen Settlement, understands that all terms in this Election and Release have the meanings defined therein, and agrees that by this Election, the Governmental Entity elects to participate in the Janssen Settlement and become a Participating Subdivision as provided therein.
2. The Governmental Entity shall, within 14 days of the Reference Date and prior to the filing of the Consent Judgment, dismiss with prejudice any Released Claims that it has filed.
3. The Governmental Entity agrees to the terms of the Janssen Settlement pertaining to Subdivisions as defined therein.
4. By agreeing to the terms of the Janssen Settlement and becoming a Releasor, the Governmental Entity is entitled to the benefits provided therein, including, if applicable, monetary payments beginning after the Effective Date.
5. The Governmental Entity agrees to use any monies it receives through the Janssen Settlement solely for the purposes provided therein.
6. The Governmental Entity submits to the jurisdiction of the court in the Governmental Entity’s state where the Consent Judgment is filed for purposes limited to that court’s role as provided in, and for resolving disputes to the extent provided in, the Janssen Settlement.
7. The Governmental Entity has the right to enforce the Janssen Settlement as provided therein.

8. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the Janssen Settlement, including but not limited to all provisions of Section IV (Release), and along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the Janssen Settlement are intended by the Parties to be broad and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The Janssen Settlement shall be a complete bar to any Released Claim.
9. In connection with the releases provided for in the Janssen Settlement, each Governmental Entity expressly waives, releases, and forever discharges any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which reads:
- General Release; extent.** A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.
- A Releasor may hereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Released Claims, but each Governmental Entity hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date, any and all Released Claims that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the Governmental Entities' decision to participate in the Janssen Settlement.
10. Nothing herein is intended to modify in any way the terms of the Janssen Settlement, to which Governmental Entity hereby agrees. To the extent this Election and Release is interpreted differently from the Janssen Settlement in any respect, the Janssen Settlement controls.

I have all necessary power and authorization to execute this Election and Release on behalf of the Governmental Entity.

Signature: _____

Name: _____

Title: _____

Date: _____

SPECIMEN

Attachment C

Resolution No. 5589-21

State of Oregon – Final Term Sheet RE Opioid Settlements and Allocation Agreement

The following term sheet contains some of the proposed terms to be encompassed in a final, definitive settlement agreement. The purpose of the term sheet is to determine if we have sufficient acknowledgement of summary terms so as to proceed to final documentation. The state and the city/county representatives and legal counsel expressly acknowledge that there is no deal or agreement until final, definitive documentation has been fully executed.

- “Local Governments” means all counties and cities in the state of Oregon.
- “Litigating Local Governments” means the Counties of Clackamas, Clatsop, Columbia, Coos, Curry, Jackson, Josephine, Lane, Multnomah, Washington, Yamhill, and the City of Portland.

Allocation of Opioid Settlement Funds

- 45% of total settlement funds directly to the State (“State Fund”)
- 55% of total settlement funds directly to Local Governments (“Local Government Fund”)
 - Funds will be allocated amongst the cities and counties based upon the MDL Metrics only, without adjustment.
 - Cities may elect direct payment to counties.

State Back-Stop/Attorney Fees

- To effectuate a State Back-Stop Agreement as outlined in the MDL Fees Order, an agreement in the form of Attachment 1 may be entered into by a Litigating Local Government, private counsel, and the Oregon Attorney General. The Oregon Attorney General shall, upon the request of a Litigating Local Government, execute any agreement executed by a Litigating Local Subdivision and its private counsel if it is in the form of Attachment 1.
- For the avoidance of doubt, this agreement does not require a Litigating Local Government to request or enter into a State Back-Stop Agreement, and no State Back-Stop Agreement shall impose any duty or obligation on the State of Oregon or any of its agencies or officers, including without limitation the Attorney General.

Use of Local Government Funds

- Local Governments commit to use all funds, except Backstop Funds, for future opioid abatement per Exhibit E of the national settlement agreements (“Approved Abatement Uses”).

Limitations on the use of State Funds

- The State Fund will be deposited in a Prevention, Treatment and Recovery Fund (“PTR Fund”), overseen by a PTR Board, which shall be used for:
 - Administration of the PTR Fund and Board;
 - Development of a unified and evidence-based state system for collecting, analyzing and publishing data about the availability and efficacy of substance use prevention, treatment and recovery services across the state; and
 - Funding statewide and regional Approved Abatement Uses.
- The State and Local Governments shall have equal representation and voting power on the PTR Board.
- Note that the State will need to obtain legislative authority to create the PTR Fund and the Board.

Medicaid Clawback

- If a Medicaid clawback occurs, payment of the clawback to the federal government will be deducted from Oregon’s total combined settlement funds prior to distribution of the remaining settlement funds to the State Fund and Local Government Fund.

Reporting

- As is required under the national settlement agreements, any distributions to state and local governments that are not used for Approved Abatement Uses must be reported to the Settlement Fund Administrator, which information will be made publicly available.
- The State and Local Governments shall maintain and provide detailed records of expenditures as follows [TBD in final agreement].

Release of Claims

- All parties agree to release all claims and to participate in the Distributor and J&J settlement agreements.

Applicability

- This agreement applies to all funds received by Oregon for the McKesson, Cardinal Health and AmerisourceBergen (“Distributors”), and manufacturer Janssen Pharmaceuticals, Inc. and its parent company Johnson & Johnson (collectively, “J&J”) settlements. In addition, the allocation percentage contain herein (45% to the State of Oregon, 55% to OR Subdivision Fund), shall apply to future multistate Opioid Settlements with Distributors, Manufacturers, and Pharmacies, subject to consideration of other terms of such settlements that impact allocation considerations. For the Purdue bankruptcy, the allocation shall only apply to Oregon’s share under the plan confirmed by Judge

Drain on September 17, 2021, and shall not apply to any increased amount paid to Oregon that might result from Oregon and other states' appeal of the plan's confirmation. The allocation percentages shall not apply to cases brought by Oregon as an individual state.

Enabling Legislation

- The State and Local Governments commit to cooperate in drafting and promoting the passage of legislation necessary to effectuate this agreement.

Attachment 1

OREGON LITIGATING GOVERNMENT BACKSTOP AGREEMENT

On August 6, 2021, Judge Polster of the US District Court for the Northern District of Ohio issued an Order (the Order), docket number 3814, in In Re National Prescription Opiate Litigation, MDL 2804, addressing contingent attorney fee contracts between political subdivisions eligible to participate in the Distributors Settlement and their counsel.

In light of the Order, and at the request of [SUBDIVISION], the [SUBDIVISION], its counsel [COUNSEL], and the Oregon Attorney General, on behalf of the State of Oregon, are entering into this Oregon Litigating Government Backstop Agreement (Backstop Agreement).

[SUBDIVISION] and [COUNSEL] intend this Backstop Agreement to constitute a State Back-Stop Agreement as that term is used in the Order and in Exhibit R (Agreement on Attorneys' Fees, Expenses and Costs) of the Distributor Settlement Agreement.

Pursuant to this Backstop Agreement, [SUBDIVISION] may, subject to the limitations of the Distributor Settlement Agreement and [Oregon Allocation Agreement], as well as any other limitations imposed by law, use funds that it receives from the Distributor Settlement Fund to pay a contingent fee to [COUNSEL]. Any such payment from [SUBDIVISION] to [COUNSEL], together with any contingency fees that [COUNSEL] may receive from the national Attorney Fee Fund, will not exceed a total contingency fee of [PERCENTAGE NOT TO EXCEED 12%] of the total gross recovery of [SUBDIVISION] from the Distributors Settlement ("Share for Fee Purposes"), but in no event shall the Litigating Local Government's share of the contingent fee exceed \$2,500,000.

[COUNSEL] certify that they first sought fees and costs from the Attorney Fee Fund created under the Distributor Settlement Agreement before seeking or accepting payment under this backstop agreement. [COUNSEL] further certify that they are not seeking and will not accept payment under this backstop agreement of any litigation fees or costs that have been reimbursed through prior settlements or judgments. The parties agree that the contingency fee paid to [COUNSEL] pursuant to this State Backstop Agreement shall be paid in accordance with the national fund payment schedule (over 7 years). For the purpose of calculating allowed contingency fees only, each Litigating Local Government's share will be calculated by applying the MDL metrics to 50% of Oregon's gross recovery under the Distributor and J&J settlements ("Share for Fee Purposes").

The Attorney General is executing this agreement solely because the definition of "State Back-Stop Agreement" in Exhibit R of the Distributor Settlement Agreement requires such agreements to be between "a Settling State" and private counsel for a participating subdivision. Neither the Oregon Attorney General nor the State of Oregon have any obligations under this Backstop Agreement, and this Backstop Agreement does not require the payment of any state funds to [SUBDIVISION], [COUNSEL], or any other party.

[SUBDIVISION SIGNATURE BLOCK]

[COUNSEL SIGNATURE BLOCK]

ATTORNEY GENERAL SIGNATURE BLOCK]

**State of Oregon Subdivision Agreement
Regarding Distribution and Use of
Settlement Funds – Distributor Settlement**

DRAFT

12.9.2021

**For Distribution to Local
Governments**

**Rights to Further Edit
Reserved**

1. Introduction

Pursuant to the Distributor Settlement Agreement, dated as of July 21, 2021, and any revision thereto (the “Distributor Settlement Agreement”), including its Section V and Exhibit O, this agreement (the “OR Distributor Allocation Agreement”) is between the State of Oregon and the OR Participating Subdivisions and governs the allocation, distribution, and use of Settlement Fund payments made to Oregon pursuant to Sections IV and V of the Distributor Settlement Agreement.¹ For the avoidance of doubt, this agreement does not apply to payments made pursuant to Sections IX or X of the Distributor Settlement Agreement.

Pursuant to Exhibit O, Paragraph 4, of the Distributor Settlement Agreement, acceptance of this OR Distributor Allocation Agreement is a requirement to be an Initial Participating Subdivision.

2. Definitions

The following terms shall have the meaning set forth below when used in this OR Distributor Allocation Agreement. Additional terms defined within this OR Distributor Allocation Agreement shall have that meaning when used in this OR Distributor Allocation Agreement. In addition, terms used in this OR Distributor Allocation Agreement that are defined in the Distributor Settlement Agreement will have that meaning unless otherwise defined in this OR Distributor Allocation Agreement.

- a) *OR Participating Subdivision* means a governmental entity listed on Exhibit A to this Agreement, and any Additional Participant who becomes entitled to a share of the OR Subdivision Funds as described in Section 4(c)(ii) below.
- b) *Janssen Settlement Agreement* means the Janssen Settlement Agreement dated July 21, 2021, and any revision thereto.
- c) *Litigating Special District* means a school district, fire protection district, health authority, health plan, or other special district that has filed a lawsuit against an Opioid Defendant.
- d) *Litigating Local Government* means a Subdivision located in Oregon, other than a Litigating Special District, that filed a lawsuit, on behalf of the Subdivision and/or through an official of the Subdivision on behalf of the People of the State of Oregon, against one or more Opioid Defendants prior to October 1, 2020.
- e) *Opioid Defendant* means any defendant (including but not limited to Johnson & Johnson, Janssen Pharmaceuticals, Inc., Purdue Pharma L.P., Cardinal Health, Inc., Amerisource Bergen Corporation, and McKesson Corporation) named in a

¹ A parallel but separate agreement (the OR Janssen Allocation Agreement”) will govern the allocation, distribution, and use of settlement fund payments under the Janssen Settlement Agreement. An eligible Subdivision may elect to participate in either the Distributor Settlement or the Janssen Settlement, or in both.

lawsuit seeking damages, abatement, or other remedies related to or caused by the opioid public health crisis in any lawsuit brought by any state or local government on or before October 1, 2020.

- f) *State of Oregon* or *State* has the same meaning as “Executive Department” as set forth in ORS 174.112, but does not include the Oregon State Treasurer or the Office of the Oregon State Treasurer. When used in any provision of this OR Distributor Allocation Agreement the term *State of Oregon* or *State* means, as the context requires, an agency, department, division, board, commission or other entity within the Executive Department that has the authority to undertake the obligations or receive the benefit of the particular provision.
- g) *Oregon* means the geographic territory of Oregon and the state and its local governments therein.
- h) *Approved Abatement Uses* means the Opioid Remediation activities described in Exhibit E to the Distributor Settlement Agreement.
- i) *Litigating Local Governments* means the Counties of Clackamas, Clatsop, Columbia, Coos, Curry, Jackson, Josephine, Lane, Multnomah, Washington, Yamhill, and the City of Portland.

3. General Terms

This OR Distributor Allocation Agreement is subject to the requirements of the Distributor Settlement Agreement, as well as applicable law. If the terms of this OR Distributor Allocation Agreement conflict with the terms of the Distributor Settlement Agreement the terms of the Distributor Settlement Agreement will take precedence over the inconsistent provisions of this OR Distributor Allocation Agreement.

Pursuant to Section V(D)(1) of the Distributor Settlement Agreement, (a) all Settlement Fund payments will be used for Approved Abatement Uses, except as allowed by Section V(B)(2) of the Distributor Settlement Agreement; and (b) at least seventy percent (70%) of Settlement Fund payment amounts will be used solely for future Approved Abatement Uses consistent with the Distributor Settlement Agreement.

4. Allocation of Settlement Funds

- a) **Allocation Generally.** The total Settlement Fund payments made to Oregon pursuant to the Distributor Settlement Agreement (the “Oregon Settlement Amount”) shall be combined pursuant to this OR Distributor Allocation Agreement and 45% of such Settlement Funds shall be allocated to the State of Oregon (such funds, the “OR State Funds”) and 55% of such Settlement Funds to the OR Participating Subdivisions (such funds, the “OR Subdivision Funds”).
- b) **State of Oregon Allocation**
 - i. For purposes of this OR Distributor Allocation Agreement “Enabling Legislation” means legislation passed by the Oregon Legislative Assembly and presented to the Oregon Governor for signature, that establishes the authority within the State of Oregon

to accept, administer, and expend the State of Oregon Allocation, and addresses other matters related to this OR Distributor Allocation Agreement. It is the intent of the Parties that the Enabling Legislation will provide, without limitation, that:

1. The State of Oregon Allocation will be deposited in a Prevention, Treatment and Recovery Fund (the “PTR Fund”), overseen by a board (the “PTR Board”), which shall be used by the State for future Approved Abatement Uses as follows:
 - (ii) Administration of the PTR Fund and PTR Board;
 - (iii) Development of a unified and evidence-based state system for collecting, analyzing and publishing data about the availability and efficacy of substance use prevention, treatment and recovery services across the state; and
 - (iv) Funding statewide and regional Approved Abatement uses.
 2. The PTR Board is constituted and authorized so that the State and OR Participating Subdivisions shall have equal representation and voting power on the PTR Board, whether directly or by designated representatives.
 3. Releases any potential claims by all local governments or local service districts, as those terms are defined in ORS 174.116, and special government bodies, as defined in ORS 174.117, that have not previously provided a release consistent with the release described in Section 9 of this OR Distributor Allocation Agreement.
- ii. The OR State Funds will be accepted, administered, and spent in accordance with the Enabling Legislation (as defined in Section 4(b)(i) above). The Parties, including the State of Oregon, agree that they will cooperate in drafting and promoting the passage of the Enabling Legislation. Until the Enabling Legislation becomes law, the OR State Funds shall be deposited in the Oregon Department of Justice’s Client Trust Account and may be expended or distributed by the Oregon Department of Justice for Approved Abatement Uses.

c) OR Subdivision Allocation

- i. The OR Subdivision Allocation will be allocated based on the allocation model developed in connection with the proposed negotiating class in the National Prescription Opiate Litigation (MDL No. 2804), as adjusted to reflect only those cities and counties that are eligible to receive Settlement Funds, based on population or litigation status, to become a OR Participating Subdivision. The percentage for each OR Participating Subdivision is set forth in Exhibit A in the column entitled “Abatement Percentage” (the “Local Allocation”). For the avoidance of doubt, Litigating Special Districts and non-litigating Oregon towns, cities, and counties with a population less than 10,000 are not eligible to receive an allocation of OR Subdivision Funds.

- ii. If the Parties agree to pursue a release consistent with Section 9 of any additional local governments or local service districts, as those terms are defined in ORS 174.116, or special government bodies, as defined in ORS 174.117 (an “Additional Participant”) where such release is advantageous to the Parties in order to maximize the amount of Settlement Funds available to Oregon under the Distributor Settlement Agreement, and such Additional Participants condition its release on receiving an allocation of Settlement Funds due to Oregon, the amount allocated to the Additional Participant will be deducted from the OR Subdivision Funds in an amount agreed to by a number of OR Participating Subdivisions whose share of the OR Subdivision Funds represents 50% or more of the OR Subdivision Funds. Upon such agreement and the execution of a release by the Additional Participant consistent with Section 9, then the OR Subdivision Funds will be reallocated in accordance with the agreement.
- iii. An OR Participating Subdivision that is a county, or a city and county, will be allocated its Local Allocation share as of the date on which it becomes an OR Participating Subdivision, and will receive payments as provided in the Distributor Settlement Agreement.
- iv. An OR Participating Subdivision that is a city will be allocated its Local Allocation share as of the date on which it becomes an OR Participating Subdivision. The Local Allocation share for a city that is an OR Participating Subdivision will be paid to the county in which the city is located, rather than to the city, so long as: (a) the county is an OR Participating Subdivision, and (b) the city has not advised the Settlement Fund Administrator that it requests direct payment at least 60 days prior to a Payment Date. A Local Allocation share allocated to a city but paid to a county is not required to be spent exclusively for Approved Abatement Uses in that city but will become part of the county’s share of the OR Subdivision Allocation, which will be used in accordance with Section 4.B.ii (Use of OR Subdivision Funds) and reported on in accordance with Section 4.B.iii (OR Funds Oversight).
- v. A city within a county that is an OR Participating Subdivision may opt in or out of direct payment at any time, and it may also elect direct payment of only a portion of its share, with the remainder going to the county, by providing notice to the Settlement Fund Administrator at least 60 days prior to a Payment Date. For purposes of this OR Distributor Allocation Agreement, the City of Portland will be deemed to have elected direct payment if it becomes a Participating Subdivision.
- vi. The State will receive the Local Allocation share of any payment to the Settlement Fund that is attributable to a county or city that is eligible to become an OR Participating Subdivision, but that has not, as of the date of that payment to the Settlement Fund, become an OR Participating Subdivision.
- vii. Funds received by an OR Participating Subdivision, and not expended or encumbered within five years of receipt and in accordance with the Distributor Settlement Agreement and this OR Distributor Allocation Agreement shall be transferred to the PTR Fund (or equivalent fund created by the Enabling Legislation) or, if the Enabling Legislation has not become law, to the fund referenced in Section 4(b)(ii) provided however, that OR

Participating Subdivisions have seven years from receipt of funds to expend or encumber OR Subdivision Funds designated to support capital outlay projects before they must be transferred to the State.

- viii. One hundred percent (100%) of Settlement Funds received by an OR Participating Subdivision that is not also a Litigating Local Government shall be used for Approved Abatement Uses.
- ix. At least ninety five percent (95%) of Settlement Funds received by an OR Participating Subdivision that is also a Litigating Local Government shall be used for Approved Abatement Uses. Up to five percent (5%) of the funds received by a Participating Subdivision that is also a Litigating Local Government may be used for opioid related expenses including opioid related litigation costs and fees for in-house and outside private counsel, subject to any limitations set forth in the Distributor Settlement Agreement.
- x. For the avoidance of doubt, and subject to the requirements of the Distributor Settlement Agreement and applicable law, OR Participating Subdivisions may form agreements or ventures, or otherwise work in collaboration with, federal, state, local, tribal or private sector entities in pursuing Approved Abatement Uses funded from the OR Subdivision Fund. Further, provided that OR Subdivision Funds are used for Approved Abatement Activities, a county and any cities or towns within the county may agree to reallocate their respective shares of the OR Subdivision Fund among themselves, provided that any direct distribution may only be to an OR Participating Subdivision and any OR Participating Subdivision must agree to its share being reallocated.
- xi. Each OR Participating Subdivision is responsible for obtaining necessary budget or expenditure authority under applicable law for its distribution or expenditures of OR Subdivision Funds in accordance with this OR Distributor Allocation Agreement.

d) Provision for State Back-Stop Agreement

On August 6, 2021, Judge Dan Polster of the U.S. District Court, Northern District of Ohio, Eastern Division, issued an order (ECF Docket Number 3814) (“MDL Fees Order”) in the National Prescription Opiate Litigation (MDL No. 2804) “cap[ping] all applicable contingent fee agreements at 15%.” Private counsel representing Litigating Local Government should seek its contingency fees and costs from the Attorney Fee Fund or Cost Funds under the Distributor Settlement Agreement and, if applicable, the Janssen Settlement Agreement.

A Litigating Local Government may separately agree to use its share of the OR Subdivision Fund to pay for fees or costs incurred by its contingency-fee counsel (“State Back-Stop Agreement”), pursuant to Exhibit R, section I(R), of the Distributor Settlement Agreement and the MDL Fees Order, so long as such contingency fee for a Litigating Local Government do not exceed a total contingency fee greater than 12% of the Litigating Counties proportional allocation of 50% of the Oregon Settlement Amount, pursuant to the Distributor Settlement Agreement and, provided further, the Oregon State Back-Stop amount for the Litigating County does not exceed the sum of \$2,500,000, inclusive of contingency fees from the national Attorney Fee Fund and the State Back-Stop Agreement. Before seeking fees or litigation costs and expenses from a State Back-Stop Agreement, private counsel representing Litigating Local

Governments must first seek contingency fees and costs from the Attorney Fee Fund or Cost Funds created under the Distributor Settlement Agreement and, if applicable, the Janssen Settlement Agreement. Further, private counsel may only seek reimbursement for litigation fees and costs that have not previously been reimbursed through prior settlements or judgments. An example of the calculation of Back-Stop Fees is set forth in Exhibit C.

To effectuate a State Back-Stop Agreement pursuant to this section, an agreement in the form of Exhibit B may be entered into by a Litigating Local Government, private counsel, and the Oregon Department of Justice. The Oregon Department of Justice shall, upon the request of a Litigating Local Government, execute any agreement executed by a Litigating Local Government and its private counsel if it is in the form of Exhibit B. The Oregon Department of Justice will also consider requests from Litigating Local Governments to execute and enter into agreements presented in other forms.

For the avoidance of doubt, this Distributor Settlement Agreement does not require a Litigating Local Government to request or enter into a State Back-Stop Agreement, and no State Back-Stop Agreement shall impose any duty or obligation on the State of Oregon or any of its agencies or officers, including without limitation the Oregon Department of Justice or the Oregon Attorney General.

e) Additional Costs

Each OR Participating Subdivision may contribute up to 5% of its share of the OR Subdivision Funds to pay opioid related expenditures such as unreimbursed administrative expenses, costs, professional fees and attorney fees of outside legal counsel and in-house legal counsel employed by the OR Participating Subdivisions (collectively, "Additional Costs"). Each OR Participating Subdivision is responsible for determining the amount of its share of the OR Subdivision Funds it uses to pay Additional Costs (subject to the limit in the previous sentence and as set forth below), and which Additional Costs it chooses to pay.

The Additional Costs may only be used to consistent with the Distributor Settlement Agreement, and pursuant to the August 6, 2021, order by Judge Polster of the US District Court for the Northern District of Ohio issued an Order (the Order), docket number 3814, in In Re National Prescription Opiate Litigation, MDL 2804, addressing contingent attorney fee contracts between political subdivisions eligible to participate in the Distributor Settlement Agreement and their counsel. In addition, to the extent the Additional Costs are used to pay the attorney's fees of outside counsel for a Litigating County, the cumulative amount of such fees paid to such outside counsel pursuant to a Back-Stop Agreement entered into under Section 4(d) and paid as Additional Costs may not exceed 15% of the Litigating County's proportional allocation of 50% of the Oregon Settlement Amount.

Each OR Participating Subdivision that pays Additional Costs pursuant to this Section 4(e) shall report such payments as required by the Distributor Settlement Agreement and this OR Distributor Allocation Agreement.

Neither the State of Oregon, including the Oregon Department of Justice, nor the Oregon Attorney General shall have any responsibility for any Additional Costs, and shall have no

responsibility or authority to resolve any disputes among the OR Participating Subdivisions, private counsel of the Litigating Counties, or any other parties with respect to any claims for payment of Additional Costs.

5. State and Subdivision Reporting and Oversight

- a) Prior to July 1st of each year until including the July 1st following the date that the Settlement Funds are fully expended, or as otherwise required by any Court Order, each OR Participating Subdivision receiving payment of OR Subdivision Funds under this OR Distributor Allocation Agreement shall deliver an annual report to the Oregon Department of Justice, to the attention of the Deputy Attorney General (as of the Effective Date, to Lisa Udland, Deputy Attorney General, at lisa.udland@state.or.us) regarding how it intends to expend, and how it did expend, its share of OR Subdivision Funds. The Oregon Department of Justice may share those reports with the PTR Board (or its equivalent as established by the Enabling Legislation) and other State entities to ensure expenditures of OR Subdivision Funds were made and will be made in accordance with the Distributor Settlement Agreement and this OR Distributor Allocation Agreement. Each report delivered under this Section 5(a) will also include a certification that all Settlement Funds received by the OR Participating Subdivision have been used in compliance with the Distributor Settlement Agreement and this OR Distributor Allocation Agreement. Each annual report will be in substantially the form determined by the State.
- b) Participating Subdivisions receiving payments of OR Subdivision Funds shall deliver to the State any documents reasonably requested by the State, and any data or information reasonably requested by the State about the use of the OR Subdivision Funds received, including documents, data, or information about OR Participating Subdivision or third-party programs, services, or infrastructure projects receiving the OR Subdivision Funds.
- c) The State will prepare an annual written report regarding the use of Settlement Funds allocated to Oregon until those funds are fully expended and for one year thereafter. These reports will be made publicly available by the State.
- d) The State, the PTR Board (or its equivalent as established by the Enabling Legislation) and all OR Participating Subdivisions receiving OR Subdivision Funds will track all deposits and expenditures. Each OR Participating Subdivision is responsible solely for the OR Subdivision Funds it receives. A county is not responsible for oversight, reporting, or monitoring of OR Subdivision Funds received by a city within that county that receives direct payment.
- e) Each Litigating Local Government receiving OR Subdivision Funds will track all deposits and expenditures, as required by the Distributor Settlement Agreement and this OR Distributor Allocation Agreement. Among other things, Litigating Local Governments using monies from the OR Subdivision Fund for purposes that do not qualify as Approved Abatement Uses must identify and include in their annual report delivered pursuant to Section 5(a), the amount of and how such funds were used, including if used to pay attorneys' fees, investigation costs, or litigation costs. Pursuant to Section V(B)(2) of the Distributor Settlement Agreement, such information must also

be reported to the Settlement Fund Administrator and the Distributors.

- f) In each year in which the State prepares an annual report the State will also host a public meeting to discuss the annual report and the Approved Abatement Uses being carried out by the State and OR Participating Subdivisions.

6. Audits

- a) If the State has a reasonable basis to suspect that an OR Participating Subdivision's use of OR Subdivision Funds is inconsistent with the Distributor Settlement Agreement or this OR Distributor Allocation Agreement, whether through review of annual reports, requests for information, or information acquired from any other sources, State shall send a request to meet and confer with the OR Participating Subdivision. The State and the OR Participating Subdivision shall meet and confer in an effort to resolve the apparent inconsistency.
- b) If the State and the OR Participating Subdivision are unable to reach a mutually acceptable resolution, the State may conduct an audit of the OR Participating Subdivision's use of the OR Subdivision Funds commencing any time within one year of the initial request to meet and confer, unless the State and the OR Participating Subdivision mutually agree in writing to extend the period during which they attempt to resolve the conflict beyond this one year period. The State may conduct the audit itself, or may engage third parties to conduct such audit
- c) If the State, following the discussions referenced in Section 6(a) or the completion of the audit referenced in Section 6(b), determines that the OR Participating Subdivision's use of OR Subdivision Funds is inconsistent with the Distributor Settlement Agreement or this OR Distributor Allocation Agreement, the State may bring a motion or action in the court where the State has filed its Consent Judgment to enforce the requirements of the Distributor Settlement Agreement or this OR Distributor Allocation Agreement.
- d) No audit may be commenced under Section 6(b), and no motion or action may be brought under Section 6(c), related to a specific expenditure of funds more than five years after the date on which the OR Participating Subdivision expenditure of the funds was last reported to the State in an annual report submitted pursuant to Section 6(a).
- e) Notwithstanding the foregoing, this OR Distributor Allocation Agreement does not limit the statutory or constitutional authority of the State of Oregon or a local agency or official to conduct audits, investigations, or other oversight activities, or to pursue administrative, civil, or criminal enforcement actions.

7. Medicaid Clawback

If the federal government determines that it is entitled to a portion of the Settlement Funds pursuant to a Medicaid clawback, then payment of Oregon share of the clawback to the federal government will first be deducted from the Oregon Settlement Amount prior to the distribution of the remaining Settlement Funds due to Oregon pursuant to

Section 4 of this Agreement. To the extent any such Medicaid clawback attempts to recoup Settlement Funds already distributed pursuant to this Section 7, then future distributions of OR Subsidiary Funds will be reduced, and distributions of OR State Funds will be increased until such time as the total amount Settlement Funds distributed accounts for the Medicaid clawback as set forth in this Section 7. State Back Stop funds are excluded from any Medicaid Clawback of Oregon funds.

8. **Applicability**

This OR Distributor Allocation Agreement applies to all funds received by Oregon for the McKesson, Cardinal Health and AmerisourceBergen ("Distributors"), and manufacturer Janssen Pharmaceuticals, Inc. and its parent company Johnson & Johnson (collectively, "J&J") settlements. In addition, the allocation percentage contained herein (45% to the State of Oregon, 55% to OR Subdivision Fund), shall apply to future multistate Opioid Settlements with Distributors, Manufacturers, and Pharmacies, subject to consideration of other terms of such settlements that impact allocation considerations. For the Purdue bankruptcy, the allocation of Settlement Funds set forth in Section 4 shall only apply to Oregon's share of Settlement Funds under the plan confirmed by Judge Drain on September 17, 2021. However, any additional amounts paid under the Purdue bankruptcy resulting from Oregon and other states' appeal of the that plan's confirmation shall be paid directly to the State of Oregon, and any such additional amounts shall not be included in the calculation of the amount of the OR State Funds due to the State of Oregon under Section 4. In addition, this OR Distributor Allocation Agreement and allocation percentages described in Section 4 shall not apply to any legal actions pursued by or settled by the State of Oregon as an individual state.

9. **Releases**

All Parties agree to release all claims as required to participate in the Distributor Settlement Agreement as set forth in the Distributor Settlement Agreement. Each Party shall exercise due diligence, seek all necessary authorizations, and take all necessary steps to complete such release.

10. **Miscellaneous**

- a) **Enforcement.** The State or any OR Participating Subdivision may bring a motion or action in the court where the State has filed its Consent Judgment to enforce the requirements of this OR Distributor Allocation Agreement. Before filing such a motion or action the Party intending to file the motion or action will meet and confer with the Party that is or will be the subject of the anticipated motion or action.
- b) **No Intended Third Parties.** Except as provided in the Distributor Settlement Agreement, this OR Distributor Allocation Agreement is not enforceable by any party other than the State and the OR Participating Subdivisions. There are no intended third party beneficiaries to this OR Distributor Allocation Agreement, and this OR Distributor Allocation Agreement does not confer any rights or

remedies upon, and shall not be enforceable by, any person, legal entity, or public body that is not a Party to this OR Distributor Allocation Agreement.

- c) **Severability.** Except as provided in the OR Distributor Allocation Agreement, if any provision of this OR Distributor Allocation Agreement or the application thereof to any person, entity, or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this OR Distributor Allocation Agreement, or the application of such provision to persons, entities, or circumstances other than those as to which it is invalid or unenforceable, will not be affected thereby, and each other provision of this OR Distributor Allocation Agreement will be valid and enforceable to the fullest extent permitted by law. In the event any provision or part of this OR Distributor Allocation Agreement is found to be invalid or unenforceable, only that particular provision or part so found, and not the entire Agreement, will be inoperative.
- d) **Additional Litigation.** Nothing in this OR Distributor Allocation Agreement alters or is intended to alter or change the right of the State of Oregon or any OR Participating Subdivision to pursue its own claims against any Defendant through separate opioid-related litigation.
- e) **Waiver of Conflict of Interest.** Consistent with the intent of this Agreement, there is no conflict of interest in Counsel representing the State of Oregon and/or Participating Subdivisions to this Agreement, but to the extent Counsels' representation may constitute a conflict of interest, the Parties waive any potential conflict of interest.
- f) **Construction.** With regard to each and every term and condition of this OR Distributor Allocation Agreement, the Parties understand and agree that the same have or has been mutually negotiated, prepared and drafted. If at any time the Parties or any court, mediator, arbitrator, or arbitration panel, are required to interpret or construe any such term or condition, no consideration shall be given to the issue of which Party actually prepared, drafted or requested any term or condition thereof.
- g) **Entire Agreement.** This Agreement contains the entire agreement between the Parties and supersedes and cancels all previous negotiations and agreements, if any.
- h) **Amendments.** Any and all amendments to this Agreement must be in writing and must be signed by all Parties. Each Party that enters into this OR Distributor Allocation Agreement represents that it has authority to enter into this OR Distributor Allocation Agreement and that all necessary actions by the Party's respective Commissions, Councils, Boards, or other governing bodies have authorized the Party to enter into this OR Distributor Allocation Agreement.
- i) **Legal Advice.** Each Party to this OR Distributor Allocation Agreement

acknowledges that is has been advised to seek legal counsel and has had the opportunity to have this Agreement reviewed by legal counsel.

- j) **Governing Law.** Except as provided in the Distributor Settlement Agreement, this agreement shall begoverned by and interpreted in accordance with the laws of the State of Oregon.

EXHIBIT A

DISCLAIMER: The allocation percentages herein are estimates only and should not be relied on for decisions regarding legal rights, releases, waivers, or other decisions affecting current or potential legal claims. Percentages shown in the Litigating Local Government Percentage column may change pursuant to Section 4.C. of the Oregon State-Subdivision Agreement Regarding Distribution and Use of Settlement Funds—Distributor Settlement, whereas the percentages shown in the Abatement Percentage column should not change. Participating Subdivisions, underlying calculations, and the calculated allocation percentages are subject to change. Regarding the column herein entitled “Abatement Percentage,” pursuant to Section 4.B.e., the State of Oregon will receive the Local Allocation share of any payment to the Settlement Fund that is attributable to a county or city that is eligible to become a CA Participating Subdivision, but that has not, as of the date of that payment to the Settlement Fund, become a Participating Subdivision. Regarding the column herein entitled “Litigating Local Government Percentage,” payments allocated to a Litigating Local Government, which is not an Initial Participating Subdivision, will be re-allocated among the Litigating Local Governments that are Initial Participating Subdivisions.

Regarding the column herein entitled “Abatement Percentage,” the annotation of “100%” refers to one-hundred percent (100%) of the Oregon Abatement Account Funds received, pursuant to Section 4.B. Regarding the column herein entitled “Litigating Local Government Percentage,” the annotation of “100%” refers to one-hundred percent (100%) of the Oregon Subdivision Funds received, pursuant to Section 4.C. Regarding the column herein entitled “Weighted Allocation Percentage,” the annotation of “100%” refers to one-hundred percent (100%) of the combined and weighted allocation of the Abatement Percentage and the Litigating Local Government Percentage.

EXHIBIT B
OREGON-SUBDIVISION BACKSTOP AGREEMENT

On August 6, 2021, Judge Polster of the US District Court for the Northern District of Ohio issued an Order (the Order), docket number 3814, in In Re National Prescription Opiate Litigation, MDL 2804, addressing contingent attorney fee contracts between political subdivisions eligible to participate in the Distributors Settlement and their counsel.

In light of the Order, and at the request of [SUBDIVISION], the [SUBDIVISION], its counsel [COUNSEL], and the Oregon Department of Justice, on behalf of the State of Oregon, are entering into this Oregon-Subdivision Backstop Agreement (Backstop Agreement). Terms used herein have the meaning set forth in the Distributor Settlement Agreement or this OR Distributor Allocation Agreement, as applicable.

[SUBDIVISION] and [COUNSEL] intend this Backstop Agreement to constitute a State Back-Stop Agreement as that term is used in the Order and in Exhibit R (Agreement on Attorneys' Fees, Expenses and Costs) of the Distributor Settlement Agreement.

Pursuant to this Backstop Agreement, [SUBDIVISION] may, subject to the limitations of the Distributor Settlement Agreement and the OR Distributor Allocation Agreement, as well as any other limitations imposed by law, use funds that it receives from the Distributor Settlement OR Subdivision Fund to pay a contingent fee to [COUNSEL]. Any such payment from [SUBDIVISION] to [COUNSEL], together with any contingency fees that [COUNSEL] may receive from the national Attorney Fee Fund, will not exceed a total contingency fee of the lesser of \$2,500,000 or a PERCENTAGE NOT TO EXCEED 12% of [SUBDIVISION'S] proportional allocation of 50% of the Oregon Settlement Amount.

[COUNSEL] certify that they first sought fees and costs from the Attorney Fee Fund created under the Distributor Settlement Agreement before seeking or accepting payment under this backstop agreement. [COUNSEL] further certify that they are not seeking and will not accept payment under this Backstop Agreement of any litigation fees or costs that have been reimbursed through prior settlements or judgments.

The Oregon Department of Justice is executing this agreement solely because the definition of "State Back- Stop Agreement" in Exhibit R of the Distributor Settlement Agreement requires such agreements to be between "a Settling State" and private counsel for a participating subdivision. Neither the Oregon Department of Justice nor the State of Oregon have any obligations under this Backstop Agreement, and this Backstop Agreement does not require the payment of any funds of the State of Oregon to [SUBDIVISION], [COUNSEL], or any other party.

[DATE]

[SUBDIVISION SIGNATURE BLOCK]

[DATE]

[COUNSEL SIGNATURE BLOCK]

[DATE]

[OREGON DOJ SIGNATURE BLOCK]

EXHIBIT C

Sample Back-Stop Calculation

\$329M = Oregon total allocation

50% = Agreed OR Participating Subsidiaries direct contribution percentage for Back-Stop computation

\$164.5M = Agreed local direct contribution amount for Back-Stop computation

X% = direct allocation percentages for litigating subdivisions as set out in Exhibit G of the Distributor Settlement Agreement

$\$164.5M \times X\%$ = direct allocation for Litigating Local Governments for purpose of Sample Back-Stop computation

12% = Cap for Back-Stop payment

$(\$164.5M \times X\%) \times 12\%$ = Maximum total payment to attorneys for Litigating Local Governments from both the national attorney fee fund + Back-Stop payment

$((\$164.5M \times X\%) \times 12\%) - \$8.8M$ = Back-Stop payment to litigating subdivisions assuming \$8.8M is recovered from the national fund (so long as this Back-Stop payment does not exceed \$2.5 million)



City of Tualatin

CITY OF TUALATIN Staff Report

TO: Honorable Mayor and Members of the City Council
THROUGH: Sherilyn Lombos, City Manager
FROM: Megan George, Deputy City Manager
DATE: December 13, 2021

SUBJECT:

Consideration of Ordinance No. 1462-21, an Ordinance Related to Parking; and Amending Tualatin Municipal Code Chapter 8-1 to Delegate Authority to the City Manager to Regulate Parking at City Offices and Library Parking Areas, and All City Employee Parking.

RECOMMENDATION:

Staff recommends Council consider Ordinance No. 1462-21.

EXECUTIVE SUMMARY:

Ordinance No. 1462-21 would delegate authority to the City Manager to regulate parking at City Offices and the Library, specifically described as the area being bounded by SW Boones Ferry Road to the North; Nyberg Street to the South; SW Martinazzi Avenue to the West; and SW Barngrover Way to the East. It would also delegate authority to the City Manager to regulate all employee parking through personnel rules in accordance with the processes described in TMC 1-06 (Personnel Rules).

ATTACHMENTS:

- Ordinance 1462-21

ORDINANCE NO. 1462-21

AN ORDINANCE RELATED TO PARKING; AND AMENDING TUALATIN MUNICIPAL CODE CHAPTER 8-1 TO DELEGATE AUTHORITY TO THE CITY MANAGER TO REGULATE PARKING AT THE CITY OFFICES AND LIBRARY PARKING AREAS, AND ALL CITY EMPLOYEE PARKING.

WHEREAS, under TMC 8-3-030, the City Council is to exercise all municipal traffic authority for the City except those powers specifically and expressly delegated;

WHEREAS, under TMC 8-1-240, the Council previously adopted regulations pertaining to the City Offices and Library Parking Areas;

WHEREAS, the existing regulations were based on a site plan that no longer reflects the current layout of the City Offices and Library Parking Areas;

WHEREAS, the Council wishes to update the regulations by delegating authority to the City Manager to determine parking regulations at City Offices and the Library through an administrative rule process; and

WHEREAS, the Council wishes to delegate authority to the City Manager to regulate employee parking through personnel rules.

THE CITY OF TUALATIN ORDAINS AS FOLLOWS:

Section 1. TMC 8-1-240 (Regulation of Parking at City Center, Library, and Council Building) is deleted in its entirety and replaced with the following:

TMC 8-1-240 Parking Regulations at Library and City Offices; Delegation to City Manager; Administrative Rules.

(1) *Purpose.* The purpose of these provisions is to provide for administrative parking regulations for all public parking spaces owned or managed by the City of Tualatin in the area more particularly described:

(a) the area being bounded by SW Boones Ferry Road to the North; Nyberg Street to the South; SW Martinazzi Avenue to the West; and SW Barngrover Way to the East.

(2) *City Manager Authority.* The City Manager is delegated the parking authority and is authorized to issue administrative rules, known as Parking Rules, to govern the use of the public parking spaces provided for in subsection (1).

(3) *Public Notice.* Prior to the adoption, amendment, or repeal of an administrative rule, the City Manager must:

(a) Give public notice of the proposed rule, that:

- (i) Generally states the subject matter and purpose of the rule;
 - (ii) States the time, place, and manner for persons to submit data or written comments about the proposed rule; and
 - (iii) States the date upon which the rule will be adopted and effective.
- (b) The notice must be posted on the City's website and in at least one conspicuous location in the Library.
- (c) The City will maintain a list of interested persons for purposes of these Parking Rules and provide copies of the proposed rule to those interested persons.

(4) *Public Comment.* Prior to the adoption of a Parking Rule, the City Manager must provide persons with not less than 15 calendar days to submit data or written comments on the proposed administrative rule. The City Manager must consider any data or comments received from persons prior to adopting the administrative rule.

(5) *Evidentiary Record Not Required.* Unless otherwise required by law, the adoption, amendment, or repeal of a rule need not be based upon, or supported by, an evidentiary record.

(6) *Effective Date.* Unless the City Manager specifies another date in the adoption order, all rules adopted are effective upon adoption.

(7) *Rules Filed with City Recorder; Publicly Available.* The adopted administrative rule must be filed with the City Recorder. The City Recorder must compile all adopted rules, including any temporary or emergency rules. Copies of current administrative rules must be made available to the public on the City's website and upon request.

(8) *Temporary Rules and Emergency Rules.*

- (a) Temporary rules may be adopted without notice or opportunity to comment, if needed to implement the provisions of any new or amended ordinance upon the ordinance's effective date.
- (b) **Emergency Rules.** Emergency rules may be adopted, amended, or suspended without prior notice or opportunity to comment, or upon abbreviated notice and opportunity to comment, if the City Manager adopts written findings that an emergency exists, and the failure to act promptly will result in prejudice to the public interest.
- (c) Any temporary or emergency rule adopted, amended, or suspended is effective for a period of not more than 180 calendar days.

(d) The adoption of a temporary or emergency rule does not preclude the subsequent adoption of an identical permanent rule.

(9) *Council Review of Administrative Rules.* No Council action is required to adopt or implement an administrative rule.

(a) The Council, upon its own motion, may review a proposed or adopted administrative rule at any time.

(b) After review of a proposed or adopted administrative rule, the Council may take no action, amend, or repeal an administrative rule.

(c) If the Council chooses to amend or repeal an administrative rule, the amendment or repeal of a rule must be by resolution of the Council.

Section 2. TMC 8-1-245 is created to read as follows:

TMC 8-1-245. City Manager to Regulate Employee Parking. In addition to any other authority granted in this Chapter, the City Manager is delegated authority to implement parking regulations for City employees. City employee parking regulations are to be determined through personnel rules adopted by the City Manager, as provided by TMC 1-06 (Personnel Rules).

Section 3. Severability. Each section of this ordinance, and any part thereof, is severable. If any part of this ordinance is held invalid by a court of competent jurisdiction, the remainder of this ordinance will remain in full force and effect.

Section 4. Effective Date. As provided in the Tualatin Charter, this ordinance is effective 30 days from the date of adoption.

ADOPTED by the City Council this ____ day of _____, 2021.

CITY OF TUALATIN, OREGON

BY _____
Mayor

APPROVED AS TO FORM

ATTEST:

BY _____
City Attorney

BY _____
City Recorder