TIGARD CITY COUNCIL & LOCAL CONTRACT REVIEW BOARD

MEETING DATE AND TIME: January 7, 2020 - 6:30 p.m. Business Meeting
MEETING LOCATION: City of Tigard - Town Hall - 13125 SW Hall Blvd., Tigard, OR 97223

PUBLIC NOTICE:
Anyone wishing to speak on an agenda item should sign on the appropriate sign-up sheet(s). If no sheet is available, ask to be recognized by the Mayor at the beginning of that agenda item. Public Comment items are asked to be two minutes or less. Longer matters can be set for a future Agenda by contacting either the Mayor or the City Manager.

Times noted are estimated; it is recommended that persons interested in testifying be present by 6:15 p.m. to sign in on the testimony sign-in sheet. Business agenda items can be heard in any order after 6:30 p.m.

Assistive Listening Devices are available for persons with impaired hearing and should be scheduled for Council meetings by noon on the Monday prior to the Council meeting. Please call 503-718-2419, (voice) or 503-684-2772 (TDD - Telecommunications Devices for the Deaf).

Upon request, the City will also endeavor to arrange for the following services:

- Qualified sign language interpreters for persons with speech or hearing impairments; and
- Qualified bilingual interpreters.

Since these services must be scheduled with outside service providers, it is important to allow as much lead time as possible. Please notify the City of your need by 5:00 p.m. on the Thursday preceding the meeting by calling: 503-718-2419 (voice) or 503-684-2772 (TDD - Telecommunications Devices for the Deaf).

SEE ATTACHED AGENDA

VIEW LIVE VIDEO STREAMING ONLINE:
http://www.tigard-or.gov/city_hall/council_meeting.php

CABLE VIEWERS: The first City Council meeting of the month may be shown live on Channel 28 at 6:30 p.m. The meeting will be rebroadcast at the following times on Channel 28:

<table>
<thead>
<tr>
<th>Day</th>
<th>Time</th>
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<tbody>
<tr>
<td>Thursday</td>
<td>6:00 p.m.</td>
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<tr>
<td>Friday</td>
<td>10:00 p.m</td>
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<tr>
<td>Sunday</td>
<td>11:00 a.m</td>
</tr>
<tr>
<td>Monday</td>
<td>6:00 a.m</td>
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EXECUTIVE SESSION: The Tigard City Council may go into Executive Session. If an Executive Session is called to order, the appropriate ORS citation will be announced identifying the applicable statute. All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions, as provided by ORS 192.660(4), but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.

1. BUSINESS MEETING
   A. Call to Order
   B. Roll Call
   C. Pledge of Allegiance
   D. Call to Council and Staff for Non-Agenda Items

2. PUBLIC COMMENT (Two Minutes or Less, Please)
   A. Follow-up to Previous Public Comment
   B. Public Comment – Sign Up Sheet

3. CONSENT AGENDA: (Local Contract Review Board) The Consent Agenda is used for routine items including council meeting calendars, appointments to boards and committees and approval of contracts or intergovernmental agreements. Information on each item is available on the city's website in the packet for this meeting. These items may be enacted in one motion without separate discussion. Council members may request that an item be removed by motion for discussion and separate action. Motion to:
   A. CONSIDER CONTRACT AWARD FOR HVAC MAINTENANCE
Consent Agenda - Items Removed for Separate Discussion: Any items requested to be removed from the Consent Agenda for separate discussion will be considered immediately after the Council/Town Center Development Agency has voted on those items which do not need discussion.

4. LEGISLATIVE PUBLIC HEARING: CONSIDER DEVELOPMENT CODE AMENDMENT DCA2019-00002 OMNIBUS CODE PACKAGE 6:40 p.m. estimated time

5. LEGISLATIVE PUBLIC HEARING: CONSIDER AN ORDINANCE AMENDING TIGARD MUNICIPAL CODE SECTION 3.24.080 TO ALLOW FOR DEFERRAL OF CERTAIN SYSTEM DEVELOPMENT CHARGES 7:10 p.m. estimated time

6. PUBLIC HEARING: CONSIDER RESOLUTION TO AMEND MASTER FEES AND CHARGES SCHEDULE FOR RESIDENTIAL PARKING FEES 7:30 p.m. estimated time

7. LOCAL CONTRACT REVIEW BOARD: CONSIDER REVISIONS TO THE CITY'S PUBLIC CONTRACTING RULES 7:40 p.m. estimated time

8. COUNCIL GOAL DISCUSSION: INCREASING POLICE SERVICES AND LOCAL OPTION LEVY 7:55 p.m. estimated time

9. NON AGENDA ITEMS

10. EXECUTIVE SESSION: The Tigard City Council may go into Executive Session. If an Executive Session is called to order, the appropriate ORS citation will be announced identifying the applicable statute. All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions, as provided by ORS 192.660(4), but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.

ADMINISTRATIVE REPORT

11. ADJOURNMENT 9:00 p.m. estimated time
AIS-4099

Business Meeting One

Meeting Date: 01/07/2020
Length (in minutes): Consent Item
Agenda Title: Consider Contract Award for HVAC Maintenance
Prepared For: Christine Moody
Submitted By: Jamie Greenberg, Finance and Information Services
Item Type: Motion Requested

Meeting Type: Consent Agenda - LCRB

Public Hearing
Newspaper Legal Ad Required?: No
Public Hearing Publication
Date in Newspaper:

Information

ISSUE

Will the Local Contract Review Board award a contract for Mechanical/HVAC Preventative Maintenance and Inspection Services to RINU dba Reitmeier?

STAFF RECOMMENDATION / ACTION REQUEST

Staff recommends that the Local Contract Review Board award the contract for the City's Mechanical/HVAC Preventative Maintenance and Inspection Services to RINU dba Reitmeier in the amount of $170,000 over the life of the contract and authorize the City Manager to take all necessary steps to execute the contract.

KEY FACTS AND INFORMATION SUMMARY

The city requires mechanical/HVAC preventative maintenance and inspection services. The contractor will be providing labor, material and equipment to perform preventative maintenance and inspection of HVAC heating/air conditioning systems at various city facilities. This service will include written reports, monitoring and preventative maintenance services.

The city issued a Request for Proposal (RFP) for the work in October, 2019 and received 2 proposals.

A selection committee was assembled and scored the proposals received based on the following criteria that was included in the RFP:

- Firm and team qualifications 40%
Based on the selection committee's recommendation, staff recommends RINU dba Reitmeier be awarded the contract as the best and most responsible firm for the work. The contract will be for a possible five years with an estimate of $34,000 per year for a total not to exceed $170,000.

OTHER ALTERNATIVES
The Local Contract Review Board may reject all proposals and direct staff to reissue the Request for Proposal.

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS
N/A

DATES OF PREVIOUS COUNCIL CONSIDERATION
This is the first time the Local Contract Review Board has been presented this contract award.

<table>
<thead>
<tr>
<th>Fiscal Impact</th>
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<tbody>
<tr>
<td>Cost:</td>
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<tr>
<td>Budgeted (yes or no):</td>
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<tr>
<td>Where budgeted?:</td>
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<tr>
<td>Additional Fiscal Notes:</td>
</tr>
</tbody>
</table>

Attachments

No file(s) attached.
ISSUE
Shall the City Council adopt the 2019 Omnibus Code Amendments (DCA2019-00002)?

STAFF RECOMMENDATION / ACTION REQUEST
Staff recommends that City Council adopt the 2019 Omnibus Code Amendments (DCA2019-00002) as proposed.

KEY FACTS AND INFORMATION SUMMARY
In January 2019, Community Development staff completed a comprehensive multi-year effort to modernize and streamline the development code, resulting in a document that is easier to read, understand and navigate.

Phase I of the project, completed in 2017, concentrated on smaller non-policy issues and code reorganization. Phases IIA and B made policy changes related to housing, commercial and industrial development standards, parking standards, small cell wireless facilities, procedures for land use approvals, as well as made some non-policy changes to language.

Since its adoption in January, implementation of the new code has identified minor deficiencies. These amendments address those deficiencies.

The proposed amendments include streamlining residential use categories into a single category, Residential Use. The proposed use category now captures all uses where components of a dwelling unit are shared by residents, such as assisted living or memory care facilities. These uses will now be considered residential.
To comply with House Bill 2001, the amendments also allow cottage clusters, courtyard units and quads in the R-1 and R-2 zones, and remove parking requirements for accessory dwelling units.

The last change is to the land division chapters, Chapter 18.810, 18.820 and 18.830. These changes pertain to lot standards, specifically the Lot Width/Depth Standard and the Rectilinear Standard. The Lot Width/Depth Standard makes it burdensome for existing lots that are narrow and deep (created in the county) to meet this criteria. The Rectilinear Standard does not work well for nonresidential properties because of irregular lot shapes and sizes are common.

The text changes also include a number of small changes that add clarifying language, reword confusing passages and fix inadvertent oversights and omissions.

**OTHER ALTERNATIVES**

The City Council may:
1. Modify the amendments and adopt;
2. Remand the amendments back to the Planning Commission; or
3. Deny the amendments.

**COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS**

**DATES OF PREVIOUS COUNCIL CONSIDERATION**

N/A

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**Attachments**

Ordinance
Exhibit A- Amendments
Exhibit B- PC Recommendation
Presentation
CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
ORDINANCE NO. 20-____


WHEREAS, the city has initiated an application to amend the text of the Community Development Code; and

WHEREAS, the purpose of the amendments is to replace and remove outdated and ineffective regulations; and address minor deficiencies and omissions in the code; and

WHEREAS, notice was provided to the Department of Land Conservation and Development at least 35 days prior to the first evidentiary public hearing; and

WHEREAS, notice to the public was provided in conformance with the Tigard Community Development Code Chapter 18.710.110 and ORS 227.186; and

WHEREAS, the Tigard Planning Commission held a public hearing on December 2, 2019 and recommended by unanimous vote that Council approve the proposed code amendments, as amended by Planning Commission; and

WHEREAS, the Tigard City Council held a public hearing on January 7, 2020 to consider the proposed amendments; and

WHEREAS, the Tigard City Council has considered the recommendation of the Planning Commission; and

WHEREAS, the Tigard City Council has considered applicable Statewide Planning Goals and Guidelines adopted under Oregon Revised Statutes Chapter 197; applicable federal and state statutes or regulations; applicable Metro regulations; applicable Comprehensive Plan Policies; and applicable provisions of the City’s implementing ordinances; and

WHEREAS, the Tigard City Council has determined that the proposed development code amendments are consistent with the applicable review criteria, and are in the best interest of the City of Tigard.
NOW, THEREFORE, THE CITY OF TIGARD ORDAINS AS FOLLOWS:

SECTION 1:  The amendments to the Tigard Municipal Code, Title 18 Community Development Code set forth in Exhibit ‘A’ are hereby adopted.

SECTION 2:  The findings and conclusions contained in Exhibit ‘B,’ “Planning Commission Recommendation to the City Council,” (DCA 2019-00002) dated December 16, 2019 are hereby adopted as the basis in support of this ordinance.

SECTION 3:  If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity does not affect the other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. This City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the ordinance be enforced.

SECTION 4:  This Ordinance shall be effective 30 days after its passage by the council, signature by the mayor, and posting by the city recorder

PASSED:  By ________________ vote of all Council members present after being read by number and title only, this _____ day of ________________, 2020.

Carol Krager, City Recorder

APPROVED:  By Tigard City Council this _____ day of ________________, 2020.

Jason Snider, Mayor

Approved as to form:

______________________________
City Attorney

______________________________
Date
OMNIBUS AMENDMENTS

Chapter 18.10
LEGAL FRAMEWORK

18.10.040 Consistency with Other Regulations

B. Other regulations. All uses and development must comply with all other applicable regional, state, and federal regulations.

2. Notwithstanding any other provision of this title, the Director has the authority to make an interpretation of reasonable accommodations in the application of this title when such accommodations may be necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling unit to the extent required by federal or state law. In considering whether an accommodation is reasonable, the Director may consider whether the request puts an undue burden or expense on the city and whether the proposed use creates a fundamental alteration in this title. The Director may ask for, or the applicant may voluntarily submit, additional information based on the requested accommodation, to determine whether the request creates an undue burden or a fundamental alteration. The accommodation may result in a permitted or conditional waiver of any limitation of this title. Determinations of reasonable accommodation are made through a Director determination, as provided in Chapter 18.730, Director Determinations.

18.10.060 Special Designations

C. Special areas. The following special areas are established in the city:

1. Special areas are shown on the following maps:

   c. Significant tree groves are shown on the “City of Tigard Significant Tree Grove Map,” adopted by reference. Significant tree groves are subject to voluntary regulations as provided in Chapter 18.520, Urban Forestry, Significant Tree Groves.

Chapter 18.30
DEFINITIONS

18.30.010 List of Terms

-D-
Dwelling-Related Definitions:
Dwelling Unit - See Dwelling-Related Definitions
Dwelling Unit-Related Definitions:

-S-
Story, First
Story, Half

18.30.020 Definitions
B. “B” definitions.

1. “Basement” - Any floor level below the first story in a building that does not meet the definition of a story, except that a floor level in a building having only one floor level is classified as a basement unless such floor level qualifies as first story as defined in this section.

D. “D” definitions.

14. Dwelling unit-related definitions:

a. “Dwelling unit” - A structure or portion thereof that is used for human habitation including permanent provisions for sleeping, cooking, and sanitation.

b. “Accessory dwelling unit” - An additional dwelling unit on a lot with a primary dwelling unit. An accessory dwelling unit is an independent living unit designed for residential occupancy by one or more people independent of the primary dwelling unit, with facilities for sleeping, cooking, and sanitation. An accessory dwelling unit may be attached or internal to the primary dwelling unit, or it may be detached from the primary dwelling unit. For the purposes of this title, internal accessory dwelling units are considered attached accessory dwelling units.

i. “Quad” - A type of attached housing dwelling unit consisting of two dwelling units on a first story, attached at a common sidewall, and two dwelling units on a second story, attached to the first story dwelling units at their common floor and ceiling.

j. “Rowhouse” - A type of attached housing dwelling unit that shares a wall with one or more other dwelling units, but excluding apartments, courtyard units, and quads. A rowhouse is not attached at a ceiling or floor to other dwelling units.

R. “R” definitions.

4. “Residence” - See “dwelling unit.”

S. “S” definitions.

5. “Story” – See Oregon Residential Specialty Code. That portion of a building or structure included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story is that portion of a building or structure included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement or unused under floor space is more than six feet above grade as defined in this section for more than 50 percent of the total perimeter or is more than 12 feet above grade as defined in this section at any point, such basement or unused under-floor space is considered a story.

6. “Story, first” - The lowest story in a building or structure that qualifies as a story, except that a floor level in a building or structure having only one floor is classified as a first story, provided such floor level is not more than four feet below grade, as defined in this section, for more than 50 percent of the total perimeter, or more than eight feet below grade, as defined in this section, at any point.

7. “Story, half” - A story under a gable or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than two feet above the floor of such story. If the finished floor level directly above a basement or unused under floor space is not more than six feet above grade,
as defined in this section, for more than 50 percent of the total perimeter or is not more than 12 feet above grade as defined in this section, at any point, such basement or unused under-floor space is considered as a half-story.

68. “Structure” - Any object that is built or constructed, and located in or on the ground, or that is attached to something fixed to the ground. Structure includes buildings, decks, fences, towers, flag poles, signs, and other similar objects. Structure does not include paved areas or vegetative landscaping materials.

79. “Subdivision” - Division of a unit of land into four or more units of land within a calendar year when such unit of land exists as a unit or contiguous units of land under a common ownership. The term “subdivision” also applies to an area of land that has been subdivided.

810. “Substantial improvement” - Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

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**Chapter 18.40 MEASUREMENTS**

**18.40.050 Building Facade Area**

The area of a specific facade of a building is determined by adding the square footage of surface area of each section of wall visible from that perspective. For buildings with articulated facades more than one wall along facade (for example, rooms jutting out from the main building or a building where each floor is set back from the floor below), all of the walls are included in the total area. The total area does not include any roof area. See Figure 18.40.9.

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**Chapter 18.60 USE CATEGORIES**

**18.60.020 Classification of Uses**

A. Considerations.

2. The following items are considered to determine what use category the use is in, and whether the activities constitute primary uses or accessory uses:

b. Relative amount of site or floor space and equipment devoted to the activities;

**18.60.040 Residential Use Category**

A. Characteristics:

1. Residential use is the residential occupancy of a dwelling unit by related or unrelated individuals. The maximum number of residents who may occupy any given dwelling unit is determined by the state building code.

2. Residential use also includes the occupancy of an institution or facility where the components of a dwelling unit are shared by residents.
3. Residential occupancy is arranged on a month-to-month basis, at a minimum, or for longer periods of time.

4. Residential use may include any combination of care, training, or treatment.

B. Accessory uses: Accessory uses may include parking, recreational and social facilities, dining halls, and home occupations.

C. Examples: Examples include household living, group living, foster homes, dormitories, fraternities and sororities, monasteries and convents, nursing and convalescent homes, memory care facilities, group homes for disabled individuals, residential treatment programs, assisted living facilities, and progressive or continuing care facilities.

D. Exceptions:

1. Does not include uses meeting the definition of Temporary Shelter, Commercial Lodging, Detention Facility, or Medical Center.

2. Does not include dormitories, fraternities, or sororities where accessory to College uses.

A. Group Living.

1. Characteristics: Group Living is characterized by the residential occupancy of a dwelling unit by a group of unrelated individuals who do not meet the definition of Household Living. Tenancy is arranged on a month-to-month basis, or for a longer period. Uses where tenancy may be arranged for a shorter period are not considered residential. They are considered to be a form of transient lodging (see the Commercial Lodging or Temporary Shelter use categories). Large Group Living facilities may also be characterized by shared facilities for eating, hygiene, or recreation. The residents may or may not receive any combination of care, training, or treatment, as long as they also reside at the site. Group Living may include the State of Oregon definition of a residential facility. The maximum number of people who may reside in any given dwelling unit is determined by the state building code.

2. Accessory uses: Accessory uses commonly found are recreational facilities and parking.

3. Examples: Examples include dormitories; communes; fraternities and sororities; monasteries and convents; nursing and convalescent homes; some group homes for the physically and mentally disabled; and some residential programs for drug and alcohol treatment.

4. Exceptions:

   a. Does not include lodging meeting the definition of Temporary Shelter, Detention Facilities, or Commercial Lodging.

   b. Does not include lodging where the residents meet the definition of household, and where tenancy is arranged on a month-to-month basis, or for a longer period, which is classified as Household Living.

B. Household Living.
1. Characteristics: Household Living is characterized by the residential occupancy of a dwelling unit by a household. Tenancy is arranged on a month-to-month basis, or for a longer period. Uses where tenancy may be arranged for a shorter period are not considered residential. They are considered to be a form of transient lodging (see the Commercial Lodging or Temporary Shelter use categories). Apartment complexes that have accessory services such as food service, dining rooms, and housekeeping are included as Household Living if tenancy meets length of stay requirements and residents have access to facilities for individual meal preparation. The maximum number of people who may reside in any given dwelling unit is determined by the state building code.

2. Accessory Uses: Accessory uses commonly found are recreational activities, keeping of common household pets, hobbies, and parking of the occupants’ vehicles. Home occupations are subject to additional regulations.

3. Examples: Examples include living in houses, accessory dwelling units, apartments, condominiums, retirement center apartments, manufactured housing, and other structures with self-contained dwelling units. Includes most types of senior housing, for example, congregate care and assisted living, if residents live in self-contained units.

4. Exceptions: Does not include lodging where tenancy may be arranged for periods less than 1 month. Such uses are classified as either Commercial Lodging or Temporary Shelter. (Ord. 18-28 §1; Ord. 18-23 §2; Ord. 10-15 §1)

18.60.050 Civic Use Categories

L. Temporary Shelter.

4. Exceptions:
   b. Does not include residential uses meeting the definition of Residential Use Household Living or Group Living.

18.60.060 Commercial Use Categories

D. Commercial Lodging.

4. Exceptions: Does not include uses meeting the definition of Residential Use Group Living or Temporary Shelter.

18.60.080 Other Use Categories

A. Agriculture/Horticulture.

1. Characteristics: Agricultural/Horticultural uses are open areas devoted to the raising, production, or keeping of plants or animals being raised for food or fiber production. Sales of products grown on site may be included.

2. Accessory uses: Accessory uses include dwellings for proprietors and animal training.

C. Detention Facilities.
4. Exceptions: Programs that provide care and training or treatment for psychiatric, alcohol, or drug problems, where patients are residents of the program, but where patients are not supervised by public safety personnel, are classified as Residential Use Group Living or Medical Center uses.

Chapter 18.110
RESIDENTIAL ZONES

18.110.030 Land Use Standards

<table>
<thead>
<tr>
<th>Table 18.110.2 Use Table</th>
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<tbody>
<tr>
<td>Use Categories</td>
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<tr>
<td>Residential Use Categories</td>
</tr>
<tr>
<td>Group Living Residential Use</td>
</tr>
<tr>
<td>Household Living</td>
</tr>
</tbody>
</table>

[6] Limited to the first story ground floor level of apartment developments and maximum square footage of 10 percent of the building.

18.110.040 Housing Types

A. A housing type is not a use category. It describes a type of development that can contain a Residential household living or group living Use.

<table>
<thead>
<tr>
<th>Table 18.110.3 Housing Types</th>
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<tbody>
<tr>
<td>Housing Types</td>
</tr>
<tr>
<td>Detached Dwellings Units</td>
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<tr>
<td>Accessory Dwelling Units (18.220)</td>
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<tr>
<td>Cottage Clusters (18.240)</td>
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<tr>
<td>Single Detached Houses (18.290)</td>
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<tr>
<td>Attached Dwellings Units</td>
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<tr>
<td>Accessory Dwelling Units (18.220)</td>
</tr>
<tr>
<td>Apartments (18.230)</td>
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<tr>
<td>Courtyard Units (18.250)</td>
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<tr>
<td>Rowhouses (18.280)</td>
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Chapter 18.120
COMMERCIAL ZONES

18.120.030 Land Use Standards
Table 18.120.1
Commercial Zone Use Standards

<table>
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[3] Residential uses are allowed on or above the second story floor of a mixed-use development where the first ground floor contains an allowed commercial use.

18.120.050 Housing Types

A. A housing type is not a use category. It describes a type of development that can contain a Residential Use Household Living or Group Living use.

Table 18.120.2
Commercial Zone Housing Types

<table>
<thead>
<tr>
<th>Housing Types</th>
<th>C-G</th>
<th>MU-CBD</th>
<th>MUE</th>
<th>MUC-1</th>
<th>MUC</th>
<th>MUE 1 and 2</th>
<th>MUR 1 and 2</th>
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<td><strong>Detached Dwellings Units</strong></td>
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<tr>
<td>Accessory Dwelling Units</td>
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<tr>
<td>Cottage Clusters (18.240)</td>
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<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>Y</td>
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<tr>
<td>Single Detached Houses</td>
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<tr>
<td>Apartments (18.230)</td>
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<tr>
<td>Courtyard Units (18.250)</td>
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<td>Quads (18.270)</td>
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Chapter 18.130
INDUSTRIAL ZONES

18.130.030 Land Use Standards

Table 18.130.1
Industrial Zone Use Standards

<table>
<thead>
<tr>
<th>Use Categories</th>
<th>I-P</th>
<th>I-L</th>
<th>I-H</th>
</tr>
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<tbody>
<tr>
<td>Residential Use</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Categories</td>
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<tr>
<td>Group Living</td>
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</table>
Table 18.130.1
Industrial Zone Use Standards

<table>
<thead>
<tr>
<th>Use Categories</th>
<th>I-P</th>
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<tbody>
<tr>
<td>Household Living Residential Use [1]</td>
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<td>R</td>
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</table>

Chapter 18.140
PARKS AND RECREATION ZONE

18.140.040 Land Use Standards

Table 18.140.1
Parks and Recreation Zone Use Standards

<table>
<thead>
<tr>
<th>Use Categories</th>
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<tr>
<td>Residential Use Categories</td>
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<tr>
<td>Group Living Residential Use</td>
<td>P</td>
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<tr>
<td>Household Living</td>
<td>P</td>
</tr>
</tbody>
</table>

Chapter 18.210
RESIDENTIAL GENERAL PROVISIONS

18.210.030 Exceptions to Setback and Height Standards

B. Exceptions to minimum setbacks.

4. Fireplaces and chimneys may project a maximum of 3 feet into a required setback provided the projection does not reduce the width of any setback to less than 3 feet.

8. In the R-12 zone, bay windows and projections with floor area may project into a required interior side or street side setback by 1 foot provided the projections do not:

9. The front setback of the front facade of the primary structure may be reduced to the average of the respective setbacks on the abutting lots using the method in Section 18.40.070. Garage setbacks may not be reduced.

Chapter 18.220
ACCESSORY DWELLING UNITS

18.220.010 Purpose

The purpose of this chapter is to provide clear and objective standards for the establishment of accessory dwelling units on lots with single detached houses to achieve the following:

A. Increase the number of affordable dwelling units;

18.220.050 Standards

A. Number of dwelling units.
2. A maximum of 1 detached accessory dwelling unit is allowed per single detached house. A second accessory dwelling unit must be attached to the primary dwelling unit.

B. Size.

2. The square footage of each attached accessory dwelling units may not exceed the square footage of the primary dwelling unit.

E. Lot coverage. Accessory dwelling units must meet the lot coverage standards for a single detached house in the base zone.

F. Entrances. Only one attached accessory dwelling unit may have an entrance on the facade facing the front property line. The entrance to a second attached accessory dwelling unit must be oriented to a side, street side, or rear lot line.

F. Parking.

1. In addition to the number of parking spaces required for the primary unit, a minimum of 1 off-street parking space must be provided for each accessory dwelling unit. Lots within 2,500 feet of a right-of-way that includes transit service are exempt from the additional parking requirement for the accessory dwelling unit.

2. An on-street parking credit may be granted for the required accessory dwelling unit parking according to the standards of Section 18.410.090.

Chapter 18.230
APARTMENTS

18.230.010 Purpose

Apartments are a type of attached housing within single-story or multi-story buildings. Apartment dwelling units may share common side walls, ceilings, or floors. The purpose of this chapter is to provide standards that promote quality development and enhance the livability, walkability, and safety of the community. Apartment development is intended to achieve the following:

A. Increase the number of affordable dwelling housing units;

18.230.020 Applicability

B. The standards of this chapter also apply to nonconforming apartment development in the R-1 through R-7 zones. In lieu of specific base zone standards, apartment development in these zones is subject to the R-12 zone standards.

CB. Apartment development in the MUC-1 zone is subject to the standards of Chapter 18.620, Bridgeport Village Plan District.

DC. This chapter does not apply to apartment development in the MU-CBD and TMU zones. Apartment development in these zones is subject to the approval processes and standards of Chapter 18.650, Tigard Downtown Plan District, and Chapter 18.660, Tigard Triangle Plan District, respectively.

18.230.040 Development Standards
C. Common open space.

3. At least 50 percent of the dwelling units in a development must face outdoor common open space or a public street. This standard is met when the front door or a window from the kitchen, living room, or dining room of a dwelling unit faces the outdoor common open space or a public street.

18.230.050 Design Standards
A. Entrances.

2. For dwelling units without internal building access, a minimum of 1 entrance per dwelling unit must be visible and accessible from a public or private street, outdoor common open space, or drive aisle that has a curb and path adjacent to the dwelling unit.

C. Facade design.

1. All building facades that face a public or private street or outdoor common open space must include at least 2 different architectural features from the list provided below in subparagraphs a through j. An additional 2 different architectural features per facade are required on all buildings with 20 or more dwelling units. This standard may be met by including different architectural features on different facades of the same building. Buildings that do not include dwelling units are exempt from providing architectural features on facades that face common open areas, but must provide at least 2 different architectural features on all street-facing facades.

c. Roof offsets or dormers.

ii. One dormer for each top-story floor dwelling unit that is a minimum of 4 feet in width and integrated into the roof form.

e. Distinct base and top. The first storyground floor is visually distinguished from the upper storiesfloors by including a belt course and at least one of the following:

h. Balconies. Balconies are included on all upper storiesfloors that meet the dimensional requirement for private open space provided in Subsection 18.230.040.D.

i. Covered porches or recessed entrances. All first-story ground floor dwelling units with individual entrances include at least one of the following:

j. Enhanced entrances or awnings. A building that provides internal access to dwelling units includes at least one of the following:

ii. A permanent architectural feature above all first-storyground floor windows, such as an awning or series of awnings, that are at least as wide as each window, a maximum of 6 feet above the top of each window, and a minimum of 3 feet in depth. The architectural feature may project into the minimum front setback.

Chapter 18.240
COTTAGE CLUSTERS

18.240.010 Purpose
Cottage clusters are groups of four to twelve detached dwelling units that are of smaller size than the typical single detached house. The purpose of this chapter is to provide standards that promote quality development and enhance the livability, walkability, and safety of the community. Cottage cluster development is intended to achieve the following:

A. Increase the number of affordable dwelling units;
E. Facilitate more efficient use of land through smaller dwelling units.

18.240.050 Development Standards

A. Density. The required density of a cottage cluster development is determined according to the following:

1. A cottage cluster development must contain a minimum of 4 dwelling units and a maximum of 12 dwelling units; and
2. One cottage dwelling unit is required for every 2,500 square feet of lot area. Any designated sensitive lands on the lot are included in the lot area. Any required dedications for public improvements are not included in the lot area.

D. Common courtyard. A common courtyard must be provided. The common courtyard must be sized and located to contain a rectangle that meets the following:

4. CottageDwelling units and parking and maneuvering areas are prohibited within the rectangle.

E. Location of dwelling units.

1. The cottage dwelling units must be arranged around the required common courtyard.
2. A minimum of two dwelling units in each development must be within 20 feet of a street property line.

F. Configuration of dwelling units. All dwelling units must be detached, with a minimum separation of 3 feet.

G. Parking. The provisions and standards of Sections 18.410.030 and 18.410.040 apply, except for Subsection 18.410.040.E. The following additional standards also apply:

1. Number of spaces.
   a. A minimum of 1 off-street parking space must be provided for each cottage dwelling unit. If the lot is within 2,500 feet of a right-of-way that includes transit service, this parking minimum is reduced by half. Fractional space requirements must be counted as a whole space.
   c. A maximum of 1.2 off-street parking spaces are allowed for each cottage dwelling unit.
3. Location.
   c. All parking areas, including garages, must be separated by a minimum of 10 feet on all sides from all other parking areas, parking structures, and dwelling units on the site. This area must meet the L-2 standard, as provided in Table 18.420.1, except that trees are not required.
H. **Pedestrian access.** An accessible path must be provided that connects the main entrance of each cottage unit to the following:

**18.240.060 Design Standards**

A. **Floor area.**

1. The maximum floor area of a single-story cottage unit is 1,000 square feet.
2. The maximum floor area of a multi-story cottage unit is 1,200 square feet.
3. The average floor area of all cottage units in a development must not exceed 1,100 square feet.

B. **Height.** The maximum height of cottage units is 25 feet.

C. **Entrances.** A minimum of 75 percent of the cottage units in a development must have their main entrances face the required common courtyard. Cottage units within 20 feet of a street property line with their entrances oriented to the street may count toward this standard. (Ord. 18-23 §2)

### Chapter 18.250
### COURTYARD UNITS

**18.250.010 Purpose**

Courtyard units are groups of five to twelve attached dwelling units that are of smaller size and scale than other attached housing types such as apartments and rowhouses. The purpose of this chapter is to provide standards that promote quality development and enhance the livability, walkability, and safety of the community. Courtyard unit development is intended to achieve the following:

A. Increase the number of affordable dwelling units;

E. Facilitate more efficient use of land through smaller dwelling units.

**18.250.040 General Provisions**

All lots approved for courtyard unit development through the provisions of this chapter will be conditioned to record a deed restriction prohibiting any type of development other than courtyard unit development on the lot. This deed restriction cannot be removed except through a land division or lot line adjustment process that brings the lot into conformance with the standards for development of other housing types. A courtyard unit development deed restriction imposed as a condition of a previous or concurrent land division or lot line adjustment process meets this standard. (Ord. 18-28 §1; Ord. 18-23 §2)

**18.250.050 Development Standards**

A. **Density.** The required density of a courtyard unit development is determined according to the following:

1. A courtyard unit development must contain a minimum of 5 dwelling units and a maximum of 12 dwelling units.
2. One dwelling courtyard unit is required for every 2,000 square feet of gross lot area. Any designated sensitive lands on the lot are included in the gross lot area. Any required dedications for public improvements are not included in the lot area.

D. Common courtyard. A common courtyard must be provided. The common courtyard must be sized and located to contain a rectangle that meets the following:

3. Courtyard Dwelling units and parking and maneuvering areas are prohibited within the rectangle.

E. Configuration of dwelling units. Courtyard Dwelling units must be attached, except that the dwelling units may be provided in 2 detached buildings of at least 3 dwelling units each. See Figure 18.250.2.

F. Location of dwelling units. The dwelling courtyard units must be arranged around the common courtyard. If dwelling courtyard units are provided in 2 detached buildings, the buildings must face each other across the common courtyard. See Figure 18.250.2.

**Figure 18.250.2**
Possible Courtyard Unit Configurations and Locations of Dwelling Units

G. Parking. The provisions and standards of Sections 18.410.030 and 18.410.040 apply, except for Subsection 18.410.040.E. The following additional standards also apply:

1. Number of spaces.
   a. A minimum of 1 off-street parking space must be provided for each dwelling courtyard unit. If the lot is within 2,500 feet of a right-of-way that includes transit service, this parking minimum is reduced by half. Fractional space requirements must be counted as a whole space.
   c. A maximum of 1.2 off-street parking spaces are allowed for each dwelling courtyard unit.

3. Location.
   c. All parking areas, including parking structures, must be separated by a minimum of 10 feet on all sides from all other parking areas, parking structures, and dwelling courtyard units on the site. This area must meet the L-2 standard, as provided in Table 18.420.1, except that trees are not required.
   d. Parking may be provided under the first story of the courtyard dwelling units, provided that this parking is accessed from the rear of the building and is not visible from the street.

H. Pedestrian access. An accessible path must be provided that connects the main entrance of each courtyard dwelling unit to the following:

**18.250.060 Courtyard Unit Design Standards**

A. Floor area.

1. The maximum floor area of each individual dwelling unit in a courtyard unit development is 1,200 square feet.

2. The average floor area of all dwelling units in a courtyard unit development must not exceed 1,000 square feet.
C. **Entrances.** A minimum of 75 percent of the courtyard dwelling units in a development must have their main entrances face the required common courtyard. Courtyard dwelling units within 20 feet of a street property line with their entrances oriented to the street may count toward this standard.

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**Chapter 18.260**

**MOBILE HOME PARKS**

**18.260.010 Purpose**

The purpose of this chapter is to establish standards for the placement of mobile homes in mobile home subdivisions and park developments.

**18.260.040 Mobile Home Park Standards**

A. **Minimum development standards,** Mobile home park development must meet the following minimum development standards:

6. Sixty square feet of outdoor recreation area, suitably improved for recreational use, provided for each dwelling unit in addition to required setbacks. Each recreation area must be a minimum size of 2,500 square feet;

B. **Other standards.**

3. Each dwelling unit must be served with a water, sewer, and electrical connection. The electrical connection must provide for 110 and 220-volt service.

10. The wheels, tongue, and traveling lights of each mobile home in a mobile home park or subdivision must be removed upon installation of the dwelling unit.

13. Primary access to the mobile home park must be from a public street and comply with Chapter 18.920, Access, Egress, and Circulation; and

   b. Access driveways connecting units to a public street must be at least 36 feet, of which at least 20 feet must be paved; and

   c. Driveways must be designed to provide for all maneuvering and parking of units without encroaching on a public street.

---

**Chapter 18.270**

**QUADS**

**18.270.010 Purpose**

Quads are a type of attached housing groups of four housing units with two dwelling units side-by-side on the first story, a ground floor and two dwelling units side-by-side on the second story floor. The dwelling units are of smaller size than the typical apartment or single detached house. The purpose of this chapter is to provide standards that promote quality development and enhance the livability, walkability, and safety of the community. Quad development is intended to achieve the following:

A. Increase the number of affordable dwelling housing units;
D. Allow development of **attached** multi-unit housing that is similar in size and form to single detached houses; 

F. Facilitate more efficient use of land through smaller **dwelling** housing units.

**18.270.050 Development Standards**

A. **Number of dwelling units.** A quad development must contain four dwelling units. Two **dwelling** units must be wholly contained within a ground-first story. Two **dwelling** units must be wholly contained within a second story.

B. **Density.** Minimum and maximum densities are determined by the required number of **dwelling** units and the lot size standards of Table 18.270.1.

<table>
<thead>
<tr>
<th>Table 18.270.1 Development Standards for Quads</th>
</tr>
</thead>
<tbody>
<tr>
<td>Standard</td>
</tr>
</tbody>
</table>

**18.270.060 Design Standards**

D. **Exterior staircases.** Exterior staircases to the second story floor of a quad are prohibited.

**Chapter 18.280 ROWHOUSES**

**18.280.010 Purpose**

Rowhouses are a type of attached housing that share common side walls. The purpose of this chapter is to provide standards that promote quality development and enhance the livability, walkability, and safety of the community. Rowhouse development is intended to achieve the following:

A. Increase the number of affordable **dwelling** housing units;

E. Facilitate more efficient use of land through smaller **dwelling** housing units.

**18.280.020 Applicability**

**B. The standards of this chapter also apply to nonconforming rowhouse development in the R-1 through R-4.5 zones. In lieu of specific base zone standards, rowhouse development in these zones is subject to the R-7 zone standards.**

**CB.** Rowhouse development in the MUC-1 zone is subject to the standards of Chapter 18.620, Bridgeport Village Plan District.

**DC.** This chapter does not apply to rowhouse development in the MU-CBD and TMU zones. Rowhouse development in these zones is subject to the approval processes and standards of Chapter 18.650, Tigard Downtown Plan District, and Chapter 18.660, Tigard Triangle Plan District, respectively.
18.280.050 Development Standards

A. Number of dwelling units. A rowhouse development must contain at least two dwelling units. There is no maximum number of dwelling units, except that in the R-7 zone, the maximum number of dwelling units per grouping is 5.

E. Parking. The provisions and standards of Sections 18.410.030 and 18.410.040 apply, except for Subsection 18.410.040.E. The following additional standards also apply:

2. Access. Access to off-street parking areas for rowhouse development may be taken through tandem driveways, shared access, or from an alley. The following requirements apply to each situation in addition to the relevant sections of Chapter 18.920, Access, Egress, and Circulation.

a. Tandem driveways. If access is taken from a street other than an alley and access is not shared development-wide, the following standards apply. See Figure 18.280.1 for examples.

   i. A maximum of 1 driveway is allowed for every 2 rowhouse dwelling units, except that each rowhouse grouping of three or more dwelling units may include 1 driveway that provides access to a single dwelling unit. Shared access is subject to the requirements of Subsection 18.920.030.C.

b. Shared access. If access for all dwelling units in a rowhouse development is shared and off-street parking areas are provided at the side or rear of a rowhouse development rather than at the front of each rowhouse dwelling unit, the minimum paved width of the shared access is 20 feet and the maximum width is 24 feet.

c. Alley access. If access is taken from an alley, the following standards apply:

   i. A maximum of one access is allowed for each rowhouse dwelling unit.

F. Pedestrian access. Rowhouse developments of 5 or more dwelling units must provide a paved, accessible pedestrian path that connects the main entrance of each rowhouse to the following:

<table>
<thead>
<tr>
<th>Table 18.280.1 Development Standards for Rowhouses</th>
</tr>
</thead>
</table>

[1] This standard does not apply to a common wall lot line where the dwelling units are attached.

18.280.060 Design Standards

B. Unit Dwelling unit definition. Each dwelling unit must include at least one of the following on the street-facing facade:

G. Windows. A minimum of 12 percent of the area of all street-facing facades on each individual dwelling unit must include windows or entrance doors. Window area is the aggregate area of the glass within each window, including any interior grids, mullions, or transoms. Door area is the area of the portion of a door other than a garage door that moves and does not include the frame. Half of the window area in the door of an attached garage may count toward meeting this standard. (Ord. 18-28 §1)
Chapter 18.290
SINGLE DETACHED HOUSES

18.290.030 Development Standards

[1] Development standards for single detached houses and allowed accessory uses and structures in the R-25 zone apply only to lots with existing nonconforming development. New construction of single detached houses is not allowed except as provided in Chapter 18.50, Nonconforming Circumstances.

18.290.040 Design Standards

A. Entrances. The main entrance to a single detached house must meet the following standards:

Chapter 18.320
COMMERCIAL ZONE DEVELOPMENT STANDARDS

18.320.050 Design Standards

B. Windows. Buildings or tenant spaces designed for first-story ground floor use by Eating and Drinking Establishments, Sales-Oriented Retail, Repair-Oriented Retail, Personal Services, and Office uses must include a minimum of 50 percent window area on all first-story ground floor street-facing facades.

18.320.060 Additional Standards for C-N, C-C, and C-G Zones

A. C-N and C-C zones. The following standards apply to development in the C-C and C-N zones in addition to all other applicable standards of this title.

3. Building design.

   a. All street-facing facades must provide a minimum of 50 percent of window area on all first-story ground floor facades and a minimum of 30 percent of window area on all upper-story floor facades, except that residential uses on upper stories floors must provide a minimum of 15 percent of window area.

B. C-G zone within the Tigard Triangle. The following standards apply to development in the C-G zone within the Tigard Triangle. These standards apply in addition to all other applicable standards of this title and govern in the event of a conflict. See Chapter 18.660, Tigard Triangle Plan District, for additional transportation facility standards and Map 18.660.A for the location of the C-G zone within the Tigard Triangle.

2. All street-facing facades within the required setbacks must include windows on a minimum of 50 percent of the first-story ground floor facade area. First-story ground floor facade area is measured from 3 feet above grade to 9 feet above grade the entire length of each street-facing facade.

Chapter 18.330
INDUSTRIAL ZONE DEVELOPMENT STANDARDS

18.330.040 Development Standards
B. Landscaping and screening. All required landscaping, including landscaping used to meet screening or tree canopy standards, is subject to the general provisions of Chapter 18.420, Landscaping and Screening.

1. The minimum landscape area standard is provided in Table 18.330.1. Landscaping standards are provided in Section 18.420.040. Any landscape area that meets the L-2 standard may count toward meeting the minimum area standard.

Chapter 18.350
RESIDENTIAL ZONE DEVELOPMENT STANDARDS

18.350.050 Design Standards

C. Facade design. All street-facing facades must include at least 3 architectural features from the list below on the entirety of the facade. Different features may be used on different facades of the same building.

5. Distinct base and top. The first story ground floor is visually distinguished from the upper stories by including a belt course and at least one of the following:

7. Enhanced entrances or awnings.

b. A permanent architectural feature is provided above all first-story ground floor windows, such as an awning or series of awnings, that are at least as wide as each window, a maximum of 6 feet above the top of each window, and a minimum of 3 feet in depth.

Chapter 18.410
OFF-STREET PARKING AND LOADING

18.410.060 Parking Structure Design Standards

A. First-story Ground floor windows and wall openings. All parking structures must provide floor windows or wall openings along street frontages. Blank walls are prohibited. All street-facing facades. Any wall facing the street must include windows, doors, or display areas equal to at least on a minimum of 20 percent of the first-story facade area ground floor wall area facing the street excluding those portions of the facade devoted to vehicular access, driveway entrances and exits, stairwells, elevators, and centralized payment booths. Required windows must have a sill no more than 4 feet above grade. Where the interior floor level prohibits such placement, the sill may be raised to allow it to be no more than 2 feet above finished floor up to a maximum sill height of 6 feet above grade.

Chapter 18.435
SIGNS

18.435.090 Special Condition Signs

E. Awning signs.

3. The standards for awning signs in all other zones are provided below.
a. The copy on awning signs may not extend above the upper surfaces of the awning structure, provided it does not extend above the roof of the associated building. They may be hung below the awning if the sign clears the sidewalk by at least 8.5 feet;

18.435.130 Base Zone Regulations

B. C-G and MUE zones. Signs other than the following are prohibited in the C-G and MUE zones:

G. MU-CBD and TMU zones. The following signs are allowed in the TMU zone and the MU-CBD zone, except that MU-CBD zoned properties located west of Fanno Creek within the Fanno-Burnham Subarea of the Tigard Downtown Plan District are subject to the residential zone sign standards in Subsection 18.435.130.A and MU-CBD zoned properties north of Pacific Highway or with frontage on Pacific Highway or Hall Boulevard are subject to the C-G zone sign standards in Subsection 18.435.130.B.

4. Projecting signs, including awning signs.

b. A building may have the following additional projecting signs:

ii. A building may have one or more additional projecting signs where the signs are perpendicular to the building face, less than 4.5 square feet in size per sign face, and located less than 10 feet from sidewalk grade as measured from the top of sign. The number of additional signs may not exceed the number of first-story ground-floor tenant spaces in the building.

5. Pedestrian-oriented roof signs.

b. The maximum number of signs allowed is equal to the number of first-story ground-floor tenant spaces in the building.

6. A-frame signs.

a. The maximum number of A-frame signs allowed is equal to the number of first-story ground-floor tenant spaces in the building or the equivalent of one sign for every 30 linear feet of street-facing building facade, whichever is greater.

H. Mixed-use zones except MU-CBD and TMU zones. Sign standards for the MUE, MUE-1, MUE-2, MUC, MUC-1, and MUR zones are located in their respective plan districts in Chapter 18.620, Bridgeport Village Plan District, and Chapter 18.670, Washington Square Regional Center Plan District.

Chapter 18.440 TEMPORARY USES

18.440.020 Applicability

C. Temporary uses allowed. The following temporary uses are allowed without a temporary use permit:

5. Seasonal and special events located entirely within the PR zone, or public right-of-way, or city-owned property provided the use has received a special event permit pursuant to Tigard
Municipal Code Chapter 7.48 in the PR zone has been approved by the Public Works Director or designee, and the use in the public right-of-way has been approved by the Police Chief or designee.

18.440.030 Types of Temporary Uses

B. Unforeseen or emergency situations. This type of temporary use is a use that is needed because of an unforeseen event such as fire, windstorm, flood, unexpected health or economic hardship, or due to an eviction resulting from condemnation or other proceedings. Examples of this type of temporary use include:

3. Use of an existing dwelling or mobile or manufactured home during the construction period of a new dwelling unit residence on the same lot.

C. Temporary sales office or model home. This type of use includes a temporary sales office or offices either in a dwelling unit or in another temporary building for the purpose of facilitating the sale of real property in any subdivision or property within this city. This includes the use of one dwelling unit in a subdivision as a “model home” for purposes of showing prospective buyers.

18.440.050 Approval Criteria

C. Temporary sales office or model home. The approval authority will approve or approve with conditions a temporary sales office or model home when all of the following are met:

2. Model home.
   b. The property to be used for a model house must be a permanently designed dwelling unit structure.

Chapter 18.510
SENSITIVE LANDS

18.510.010 Purpose

G. Location. Sensitive lands are lands potentially unsuitable for development because of their location within:

1. The special flood hazard area or 1996 flood inundation line, whichever is greater;

2. Natural drainageways;

3. Wetland areas that are regulated by the other agencies including the U.S. Army Corps of Engineers and the Division of State Lands, or are designated as significant wetland on the City of Tigard “Wetland and Stream Corridors Map”;

4. Steep slopes of 25 percent or greater and unstable ground; and

5. Significant fish and wildlife habitat areas designated on the City of Tigard “Significant Habitat Areas Map.”

6. Significant tree groves as shown on the “City of Tigard Significant Tree Grove Map”.

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18.510.020 Applicability

B. Allowed uses with no approval required. Except as provided below and by Subsections 18.510.020.D, F, and G of this section, the following uses are allowed uses within drainageways, slopes that are 25 percent or greater, and unstable ground when the use does not involve paving. For the purposes of this chapter, the word “structure” excludes: children’s play equipment, picnic tables, sand boxes, grills, basketball hoops, and similar recreational equipment.

7. Fences; except in a water quality sensitive area or vegetated corridor, as defined in the CSW “Design and Construction Standards”; or the Statewide Goal 5 vegetated corridor established for the Tualatin River, as defined in Section 18.510.080.

8. Accessory structures that are less than 120 square feet in size; except in a water quality sensitive area or vegetated corridor, as defined in the CSW “Design and Construction Standards”; or the Statewide Goal 5 vegetated corridor established for the Tualatin River, as defined in Section 18.510.080.

9. Land form alterations involving up to 10 cubic yards of material; except in a water quality sensitive area or vegetated corridor, as defined in the CSW “Design and Construction Standards”; or the Statewide Goal 5 vegetated corridor established for the Tualatin River, as defined in Section 18.510.080.

18.510.040 General Provisions for Special Flood Hazard Areas

R. Definitions. The following definitions are only applicable to this chapter section.
## Chapter 18.510
### SIGNIFICANT TREE GROVES

### Table 18.520.1
Density Transfer for Preservation of Significant Tree Groves

<table>
<thead>
<tr>
<th>Residential Zone</th>
<th>Detached Sq. Ft. Percent Tree Grove Canopy Preserved/Min. Lot or Unit Area</th>
<th>Attached Sq. Ft. Percent Tree Grove Canopy Preserved/Min. Lot or Unit Area</th>
<th>Duplex Percent Tree Grove Canopy Preserved/Min. Lot or Unit Area</th>
<th>Multifamily Percent Tree Grove Canopy Preserved/Min. Unit Area</th>
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</thead>
<tbody>
<tr>
<td>R-1 (30,000 sq ft per unit)</td>
<td>25-49% /2,500 sq ft 50-74520% /7,000 sq ft 75-100% /15,000 sq ft</td>
<td>Not Allowed</td>
<td>Not Allowed</td>
<td>Not Allowed</td>
</tr>
<tr>
<td>R-2 (20,000 sq ft per unit)</td>
<td>25-49% /15,000 sq ft 50-74520% /10,000 sq ft 75-100% /5,000 sq ft</td>
<td>Allowed with 75% or greater tree grove canopy preservation/5,000 sq ft</td>
<td>Not Allowed</td>
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<tr>
<td>R-3.5 (10,000 sq ft per unit)</td>
<td>25-49% /7,000 sq ft 50-74520% /5,000 sq ft 75-100% /2,500 sq ft</td>
<td>Allowed with 75% or greater tree grove canopy preservation/2,500 sq ft</td>
<td>Allowed with 75% or greater tree grove canopy preservation/5,000 sq ft</td>
<td>Not Allowed</td>
</tr>
<tr>
<td>R-4.5 (7,500 sq ft per unit)</td>
<td>25-49% /5,625 sq ft 50-74520% /3,750 sq ft 75-100% /1,875 sq ft</td>
<td>Allowed with 75% or greater tree grove canopy preservation/1,875 sq ft</td>
<td>Allowed with 75% or greater tree grove canopy preservation/3,750 sq ft</td>
<td>Not Allowed</td>
</tr>
<tr>
<td>R-7 (5,000 sq ft per unit)</td>
<td>25-49% /3,750 sq ft 50-74520% /2,500 sq ft 75-100% /1,250 sq ft</td>
<td>Allowed with 75% or greater tree grove canopy preservation/1,250 sq ft</td>
<td>Allowed with 75% or greater tree grove canopy preservation/2,500 sq ft</td>
<td>Not Allowed</td>
</tr>
<tr>
<td>R-12 (3,050 sq ft per unit)</td>
<td>Apartment and single detached house transfer allowed at the following densities: 25-49% tree grove canopy preservation/2,288 sq ft/unit 50-74520% tree grove canopy preservation/1,525 sq ft/unit 75-100% tree grove canopy preservation/763 sq ft/unit</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>R-25 (1,480 sq ft per unit)</td>
<td>Apartment and single detached house transfer allowed at the following densities: 25-49% tree grove canopy preservation/1,110 sq ft/unit 50-74520% tree grove canopy preservation/5,200 sq ft/unit 75-100% tree grove canopy preservation/370 sq ft/unit</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>R-40 (None)</td>
<td>Apartments and single detached housing allowed with no upper density limit.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Chapter 18.620
BRIDGEPORT VILLAGE PLAN DISTRICT

18.620.070  Design Standards

D. Building design standards. Nonresidential buildings must comply with the standards below. Residential-only and mixed-use buildings where at least 50.1 percent of the floor area of the building is residential must comply with Section 18.620.080.

1. First-story Ground floor windows. All street-facing facade elevations within the required building setback (0–10 feet) along public streets must include windows, doors, or display areas on a minimum of 50 percent of the first-story facade area ground floor wall area with windows, display areas or doorway openings. The first-story facade ground floor wall area is measured from 3 feet above grade to 9 feet above grade the entire length width of the street-facing facade elevation. The ground floor window requirement must be met within the ground floor wall area and for glass doorway openings to ground level. Up to 50 percent of the first-story ground floor window requirement may be met on an adjoining facade elevation provided all of the requirement is located at a building corner.

18.620.080  Design Compatibility Standards

A. Front facades. All primary first-story ground floor common entrances or individual unit entrances of street-facing frontage dwelling units must be oriented to the street, not to the interior or to a parking lot. The front facade elevation of large structures must be divided into smaller areas or planes of 500 square feet or less. Projecting features such as porches, balconies, bays, dormer windows, and roof pediments are encouraged for street-facing structures facing a street to create visual interest.

C. Unit definition. Each dwelling unit must be emphasized by including a roof dormer or bay windows on the street-facing facade elevation, or by providing a roof gable or porch that faces the street. First-story Ground level dwelling units must include porches that are at least 48 square feet in area with no dimension less than 6 feet.

E. Trim detail. Trim must be used to mark all building roof lines, porches, windows, and doors that are on a primary structure’s street-facing facade elevations.

Chapter 18.630
DURHAM ADVANCED WASTEWATER TREATMENT FACILITY PLAN DISTRICT

18.630.090  Additional Standards for Conditional Uses Within the Administrative Subdistrict

B. Standards. Conditional uses within the administrative subdistrict are subject to the following:

2. First-story Ground floor windows. All street-facing facade elevations along public streets must include windows on a minimum of 50 percent of the first-story facade area ground floor wall area with windows or glazed doorway openings. The first-story facade ground floor wall area is measured from 3 feet above grade to 9 feet above grade the entire length width of the street-facing facade elevation. Glazing covered with applied window film will not be considered in the calculation to meet this standard.
Chapter 18.640
RIVER TERRACE PLAN DISTRICT

18.640.070 Planned Developments

E. Design standards for single detached houses and rowhouses. The following design standards apply to single detached houses and rowhouses where the applicant chooses to provide them under Subparagraph 18.640.070.C.2.e or where required by Subsection 18.640.060.A. The design standards in Chapter 18.290, Single Detached Houses, and Chapter 18.280, Rowhouses, apply in all other situations.

5. Garages and carports. These standards are intended to prevent garages and carports from obscuring or dominating the street-facing facade of residential buildings. An illustration of garage door width is shown in Figure 18.640.6.

b. Garage door width. The width of a garage door is the width of the opening as measured from inside the garage door frame.

i. A dwelling unit is allowed one 12-foot-wide garage door, regardless of the total width of the street-facing facade.

ii. A dwelling unit may have a garage door wider than 12 feet provided that it does not exceed 40 percent of the total width of the street-facing facade on which the garage door is located.

18.640.100 On-Street Parking

B. Quantity standards. All single detached house development described in Subsection 18.640.100.A must provide the following number of on-street parking spaces:

1. For a dwelling unit with one off-street parking space, a minimum of 2 on-street parking spaces must be provided.

2. For a dwelling unit with two off-street parking spaces, a minimum of 1 on-street parking space must be provided.

3. For dwellings units with more than two off-street parking spaces, a minimum of 1 on-street parking space must be provided for every two lots with more than two off-street parking spaces that are adjacent to each other.

Chapter 18.650
TIGARD DOWNTOWN PLAN DISTRICT

18.650.010 Purpose

B. Sub-areas. The four sub-areas located on Map 18.650.B and described below have different development standards in order to create a feeling of distinct districts within the larger zone.

1. Highway 99W and Hall Boulevard Corridor. The purpose of this sub-area is to create a pulse-point along the Highway 99W corridor. Located at the intersection of 99W and Hall Boulevard, the area has the high traffic and visibility to draw potential retail customers from the region. The area will accommodate higher levels of vehicular circulation, while maintaining a pedestrian scale at the first story of buildings. It allows development of mixed-use and retail buildings that vary in scale from
single-story retail-only buildings to mixed-use buildings up to 45 feet tall with retail on the first story and residential or Office uses above.

3. Scoffins Street - Commercial Street. The purpose of this sub-area to provide an opportunity for higher-density residential as well as an employment base comprised of civic, office, and commercial uses in the areas of Commercial Street and Scoffins Street. Residential-only buildings, commercial buildings, and mixed-use developments are allowed.

18.650.020 Applicability

A. Applicability. The regulations of this chapter apply to the Tigard Downtown Plan District in addition to all other applicable regulations of this title. The boundaries of the plan district are shown on Map 18.650.A, which is located at the end of this chapter, and on the official zoning map.

2. Pre-existing uses and development. Pre-existing land uses and associated development that were lawfully established prior to the effective date of this chapter are treated as lawful or approved uses and developments, subject to the following:

18.650.050 Development Standards

B. Parking.

7. No parking is required for new commercial development up to 20,000 square feet in the Main Street-Center Street sub-area except that any apartments must provide a minimum of 1 parking space per unit.

![Figure 18.650.1 Parking Location]

Fix Figure to read:
D- S-4 Standard
F- See Chapter 18.420 for…

18.650.060 Design Standards

A. Create vibrant first stories, streetscapes, and rights-of-way; provide weather protection; and promote safety and security.
2. Standards.

a. Street facade. Street-facing facades must be built in proximity to the street. This standard is met when at least 50 percent of the first-story front building elevation is located no further from the front property line than the maximum front setback standard provided in Table 18.650.1; and, where maximum street-facing side setbacks are required within the Main Street Center Street sub-area, at least 50 percent of the first-story street-facing side building elevation is located no further from the street-facing side property line than the maximum street-facing side setback standard provided in Table 18.650.1.

b. Primary entrances.

i. Nonresidential and mixed-use buildings.

(A) At least 1 entrance is required for each business with a first-story street-facing building elevation frontage.

(C) All primary first-story common entrances must be oriented to the street or a public space directly facing the street, not to the interior or to a parking lot.

ii. Residential buildings.

(B) All street-facing building elevations must include at least one entrance to apartment development buildings and individual unit entrances to rowhouses development that are from the street must be oriented to the street or public right-of-way, not to the interior or to a parking lot.

c. Windows. Minimum window coverage includes any glazed portions of doors.

i. Nonresidential and mixed-use buildings.

(A) The minimum window area of first-story street-facing facades is 60 percent.

(B) First-story windows must have a visible transmittance (VT) of 0.6 or higher, with the exception of medical and dental offices, which may have tinted windows.

ii. Residential buildings. The minimum window area of first-story street-facing facades is 30 percent.

iii. Upper story floor windows for all buildings.

B. Cohesive architectural facade standards.

1. Purpose. Build and expand upon downtown Tigard’s architectural character by incorporating cohesive and repetitive architectural elements into the first storyground floor of street-facing facades. Relate to the horizontal facade articulation and massing of surrounding development or utilize building and site design elements that connect Fanno Creek Park or extend natural elements to the downtown.

2. Standard. Divide the street-facing first storyground floor of nonresidential and mixed-use storefronts into distinct architectural bays that are no more than 30 feet on center. For the purpose
of this standard, an architectural bay is defined as the zone between the outside edges of an engaged column, pilaster, post, or vertical wall area.

C. Integrated building facade standards.

1. Purpose. Build upon and improve downtown Tigard’s architecture by creating an attractive and unified building facade that encourages first-story ground floor activities and creates visually interesting facades and roofs.

2. Standards.
   a. Facades.
      i. Nonresidential and mixed-use buildings without residential component. Buildings 2 stories and above must have 3 clearly defined elements on the street-facing facade: a base (extends from the sidewalk to the bottom of the second story or the belt course that separates the first story ground floor from the middle of the building); a middle (distinguished from the top and base of the building by use of building elements); and a top (roof form or element at the uppermost portion of the facade that visually terminates the facade).

F. Outdoor open space and public plaza.

1. Purpose. Assure adequate public, private, and shared outdoor space.

2. Standards.
   a. Nonresidential and mixed-use buildings without a residential component.
      i. Developments with sites areas greater than 60,000 square feet must include at least 1 public outdoor space with a minimum size of 600 square feet.
      ii. Public outdoor spaces must be abutted on at least 2 sides by retail shops, restaurants, or services with window entrances fronting on the space.
   b. Residential and mixed-use buildings with four or more dwelling units, a residential component.
      i. Private outdoor space. For all residential only buildings and mixed use buildings with more than 4 residential units, private open space, such as a private porch, a deck, a balcony, a patio, an atrium, or other private outdoor space, private area, must be provided.
         (A) An average of 28 square feet of private outdoor open space must be provided per dwelling unit in a development.
         (B) In order to be counted toward the private outdoor open space standard average, the private outdoor open space provided to each dwelling unit must be a minimum of 32 square feet, with a minimum depth of 4 feet.
         (C) The private outdoor open space provided must be contiguous with the dwelling unit.
         (D) Balconies used for entrances or exits are not considered as private outdoor open space except where such exits or entrances are for the sole use of the dwelling unit.
ii. Shared outdoor space must be provided in addition to required private outdoor space. Examples include: for mixed-use buildings with residential units and apartment developments. In addition to the required private outdoor space, apartments and mixed-use buildings with more than 4 residential units must provide shared open space (for example, courtyards, roof decks, gardens, play areas, outdoor recreation facilities, indoor recreation rooms, or similar spaces. Shared outdoor space must be a minimum of that is equal to or greater than 10 percent of the development site, except as follows:

(A) Up to 50 percent of the shared outdoor open space standard may be met by providing additional private outdoor open space, such as balconies, porches, and patios in addition to what is required in Subparagraph 18.650.060.F.2.a.

(B) A shared outdoor open space credit of 50 percent may be granted when an apartment development is directly adjacent to an improved public park.

(C) Credit for up to 100 percent of the shared outdoor open space standard may be met by paying a fee-in-lieu. The fee will fund parks or plazas within the downtown urban renewal district.

G. Additional requirements for rowhouses.

2. A minimum of 100 square feet of private outdoor open space such as a private porch, yard, a deck, a balcony, a patio, or other private outdoor space private area is required per dwelling unit.

18.650.070 Transportation Connectivity

A. Purpose. The purpose of this section is to implement the City of Tigard 2035 Transportation System Plan, which describes a more complete system of streets and pathways to improve multi-modal access to, from, and within the plan district downtown mixed-use central business district. The standards in this section are intended to execute connectivity improvement projects that will foster creation of smaller block sizes, efficient routes into and within downtown, and new streets to accommodate and encourage downtown development. The standards are also intended to solve some existing connectivity issues, such as access across railroad tracks.

C. Required new street and alley connections. Required new street and alley connections must be provided as follows.

1. For new development and for major redevelopment valued at more than 60 percent of its total current value as assessed by the Washington County assessor, the applicant must comply with the following:

2. For all other developments projects other than new development and major redevelopment, the applicant must comply with the following:

18.650.100 Specific Adjustments

D. Adjustments to density and height. Qualified affordable housing developments are eligible for both density and height bonuses.

2. Approval Criteria. To qualify for a density or height bonus, a development must meet the following:
a. The development meets the threshold for the requested bonus:

i. A height bonus of an additional 20 ft over the maximum height is allowed for any development where a minimum of 20 percent of the dwelling units are affordable.

b. The approval has been conditioned on the recording of deed restriction that prohibits the sale or rental of any affordable dwelling unit used to meet the standard of Paragraph 18.650.100.D.1, except as housing that meets that standard, for the life of the development.

<table>
<thead>
<tr>
<th>Affordable Dwelling Units Based on Maximum Density</th>
<th>Density Bonus</th>
</tr>
</thead>
<tbody>
<tr>
<td>5%</td>
<td>5%</td>
</tr>
<tr>
<td>10%</td>
<td>10%</td>
</tr>
<tr>
<td>20%</td>
<td>20%</td>
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<td>30%</td>
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<td>40%</td>
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<tr>
<td>50%</td>
<td>50%</td>
</tr>
</tbody>
</table>

Chapter 18.660
TIGARD TRIANGLE PLAN DISTRICT

18.660.040 Review Process

C. Land use review. Whether required by this title or initiated by the applicant, land use review precedes development review. Land use review is the process whereby the applicant submits any required or applicant-initiated land use applications to the city for review against all applicable approval criteria and standards. The provisions of Chapter 18.770, Planned Developments, do not apply to properties in the TMU zone.

4. Adjustment application. An adjustment application is processed through a Type II procedure as provided in Section 18.710.060.

a. An adjustment application may contain multiple adjustment requests. An adjustment may be requested for any standard in this chapter unless specifically prohibited by this chapter. An adjustment may not be requested to change or eliminate a required review process. The provisions of Chapter 18.715, Adjustments, do not apply to properties in the TMU zone. An adjustment request for a standard outside of this chapter is subject to the provisions of Chapter 18.715, Adjustments.

18.660.050 Pre-Existing Development and Approvals

D. Sites with pre-existing development.

4. Pre-existing buildings that do not meet the site or building design standards in Sections 18.660.070 and 18.660.080 may continue and be modified subject to the standards in Table 18.660.2. Applicable standards only apply to the proposed modification and not to the non-modified portion of the existing building. Modifications that expand a building may be vertical (e.g. second story addition), horizontal (e.g. first-storyground floor expansion), or both (e.g. 2-story addition).
18.660.080 Building Design Standards

B. Building height. The maximum allowed building height is 6 stories, except for properties shown on Map 18.660.A that have a maximum allowed building height of 4 stories. Basements, as defined in Chapter 18.30, Definitions, are not considered stories for purposes of meeting this standard. The height standard for each type of story is provided in Table 18.660.7. Vertical building projections not used for human habitation such as chimneys, flag poles, and elevator shaft housings are exempt from the building height standards of this chapter, except for wireless communication facilities, which are subject to the standards in Chapter 18.450, Wireless Communication Facilities.

<table>
<thead>
<tr>
<th>Type of Story</th>
<th>Height</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ground/First story</td>
<td>12 feet (min.) and 25 feet (max.)</td>
</tr>
<tr>
<td>Middle stories</td>
<td>14 feet (max.)</td>
</tr>
<tr>
<td>Top story</td>
<td>18 feet (max.)</td>
</tr>
</tbody>
</table>

E. Building facade windows. Building facade windows are required as follows:

<table>
<thead>
<tr>
<th>Type of Story and Use</th>
<th>Minimum Window Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ground/First Story: Mixed-Use and Nonresidential</td>
<td>50% of facade</td>
</tr>
<tr>
<td>Upper Stories: Mixed-Use and Nonresidential</td>
<td>30% of facade</td>
</tr>
<tr>
<td>Ground/First Story: Residential Only</td>
<td>30% of facade</td>
</tr>
<tr>
<td>Upper Stories: Residential Only (Does not apply to stories with sloped roofs or dormers)</td>
<td>15% of facade</td>
</tr>
</tbody>
</table>

Chapter 18.670
WASHINGTON SQUARE REGIONAL CENTER PLAN DISTRICT

18.670.020 Applicability

B. Conflicting standards. The following standards apply to all nonresidential and mixed-use development located within the Washington Square Regional Center Plan District within the MUC, MUE, and MUR zones. The standards and requirement in this chapter govern in the event of a conflict.

18.670.050 Pre-Existing Uses and Developments

Pre-existing dwelling units in mixed-use zones are allowed. Conversion of pre-existing dwelling units to other uses is subject to the requirements of this chapter. Notwithstanding the provisions of Section 18.50.040, pre-existing land uses and associated development that were lawfully in existence at the effective date of the Washington Square Regional Center Plan District are treated as lawful or approved uses and developments.

18.670.070 Site Design Standards

B. Building placement on arterials and collectors.
1. Purpose. Architecture helps define the character and quality of a street and can make a strong statement about the overall community and city at large. The placement and design of buildings provides the framework for the streetscape and defines the edges of the public right-of-way. Architecture and first-story ground floor uses can activate the street, either by its design presence or by those who come and go from it. At intersections, investing in building frontages can create gateways and special places that add to the character of the area.

18.670.080 Building Design Standards

B. First-story ground floor windows.

1. Purpose. Blank walls along the street frontage tend to be neglected and are not pedestrian friendly. Windows help keep “eyes on the street” that promote safety and security and can help create a lively street frontage by displaying activities and products within the building. Lighting at night from first-story ground floor windows also adds to the presence of activity and the sense that someone is home.

2. Standard. All street-facing façade elevations within the required building setback (0 to 10 feet) along public streets must include windows, doors, or display areas on a minimum of 50 percent of the first-story façade area — ground floor wall area with windows, display areas, or doorway openings. The first-story façade ground floor wall area is measured from 3 feet above grade to 9 feet above grade the entire length width of the street-facing façade elevation. The ground floor window requirement must be met within the ground floor wall area and for glass doorway openings to ground level. Up to 50 percent of the first-story ground floor window requirement may be met on an adjoining façade elevation provided the entire requirement is located at a building corner.

Chapter 18.710
LAND USE REVIEW PROCEDURES

18.710.030 General Provisions

B. Neighborhood meetings. A prospective applicant must hold a neighborhood meeting prior to filing the following applications: comprehensive plan map amendment (quasi-judicial), conditional use, major modifications, planned development review, sensitive lands review (Type II and III), site development review (Type II), subdivision, and zoning map amendment (quasi-judicial).

18.710.120 Special Procedures

C. Affordable housing developments. Applications for affordable housing developments qualify for a reduced review time of 100 days from the date the application is deemed complete, provided the following are met:

1. The application is for apartment or rowhouse development containing five or more dwelling residential units;

2. At least 50 percent of the dwelling residential units included in the development will be sold or rented as affordable to households with incomes equal to or less than 60 percent of the median family income for Washington County, or for the state, whichever is greater; and

3. The development is conditioned on the recording of a covenant appurtenant, prior to the issuance of a certificate of occupancy, that prohibits the sale or rental of any affordable dwelling residential
unit used to meet the standard of Paragraph 18.710.120.C.2, except as housing that meets that standard, for a period of 60 years from the date of the certificate of occupancy.

Chapter 18.715
ADJUSTMENTS

18.715.040 Approval Process

An adjustment application is processed through a Type II procedure as provided in Section 18.710.060. (Ord. 18-28 §1)

18.715.050 Approval Criteria

The approval authority will approve or approve with conditions an adjustment application when all of the criteria in either Subsection 18.715.050.A or B are met.

A. Criteria for demonstrating substantial compliance.

1. The proposed adjustment results in development that is generally consistent with the purpose of the development standard to be adjusted; and

   a. Has only minor impacts on surrounding properties or public facilities; or

   b. Addresses a site constraint or unusual situation; or

   c. Utilizes innovative design or results in sustainable development.

2. If more than one adjustment is proposed, the cumulative effect of the adjustments results in development that is generally consistent with the existing development pattern of the surrounding area and the overall purpose of the base zone;

3. The proposed adjustment utilizes innovative design, results in sustainable development, or addresses a site constraint or unusual situation;

24. The proposed adjustment does not have a greater impact on city-designated sensitive lands than would otherwise occur if the adjustment was not approved; and

3. If the proposed adjustment addresses a site constraint or unusual situation, utilizes innovative design, or results in sustainable development, any impacts from the proposed adjustment are mitigated to the extent practicable; and

4. If more than one adjustment is proposed, the cumulative effect of the adjustments results in development that is generally consistent with the existing development pattern of the surrounding area and the overall purpose of the base zone.

5. Any impacts from the proposed adjustment are mitigated to the extent practicable.

Chapter 18.720
ANNEXATIONS

18.720.020 Approval Process
A. Quasi-judicial annexation applications are processed through a Type III-Modified procedure, as provided in Section 18.710.080. Quasi-judicial annexations are decided by the City Council with a recommendation by Planning Commission.

B. Legislative annexation applications are processed through the Legislative procedure, as provided in Section 18.710.110.

Chapter 18.730
DIRECTOR DETERMINATIONS

18.730.040 Approval Process

Applications for a Director determination are processed through a Type I procedure, as provided in Section 18.710.050.

Chapter 18.740
CONDITIONAL USES

18.740.050 Approval Criteria

G. Adequate public facilities are available to serve the proposed development or use at the time of occupancy.

Chapter 18.760
HOME OCCUPATIONS

18.760.020 Applicability

B. Exemptions. The following activities and uses are exempt from the provisions of this chapter:

3. Home Family day care uses;

5. Legal nonconforming home occupations as provided in Section 18.760.090.

18.760.030 Approval Process

A. Type I home occupations. A Type I home occupation application is processed through a Type I procedure, as provided in Section 18.710.050.

B. Type II home occupation permit. A Type II home occupation application is processed through a Type II procedure, as provided in Section 18.710.060

18.760.050 General Provisions

All home occupations except legal nonconforming home occupations must comply with all of the following in addition to the approval standards for Type I and Type II home occupations provided in Section 18.760.060.

D. The home occupation must be operated entirely within the dwelling unit or a conforming accessory structure. The maximum square footage used for the home occupation and associated storage of materials and products is 25 percent of the combined residence and accessory structure floor area or
528 square feet, whichever is smaller. All indoor storage of materials or products must meet the provisions of the building, fire, health, and housing codes.

F. A dwelling unit may have more than one home occupation, provided that the combined floor area used for the home occupations does not exceed the square footage limitation imposed in Subsection Paragraph 18.760.040.DA. Each home occupation must apply for a separate home occupation permit, if required by this chapter.

**Chapter 18.770**
**PLANNED DEVELOPMENTS**

18.770.070 Conditions of Approval

The approval authority may impose conditions of approval that are suitable and necessary to ensure that the consolidated or concept plan proposal is consistent with the purpose of this chapter as embodied by the approval criteria listed in Subsections 18.770.060.A and B. Conditions may include but are not limited to the following:

H. Requiring pedestrian-oriented design features such as building awnings, first-story ground floor windows and entries, or street-facing facades;

**Chapter 18.790**
**TEXT AND MAP AMENDMENTS**

18.790.020 Legislative Amendments

A. Approval process. A Legislative amendments application are processed through a Legislative procedure, as provided in Section 18.710.110.

B. Approval considerations. A recommendation or a decision for a legislative amendment application may be based on consideration of the applicable legal requirements. They may, but do not necessarily include: Oregon Revised Statues, Oregon Administrative Rules, one or more Statewide Planning Goals, Metro’s Urban Growth Management Functional Plan and any other regional plans. (Ord. 18-28 §1; Ord. 18-23 §2; Ord. 17-22 §2)

18.790.030 Quasi-Judicial Amendments

A. Approval process.

1. A Quasi-judicial zoning map amendments application that does not require a comprehensive plan map amendment are processed through a Type III-PC procedure, as provided in Section 18.710.070.

2. A Quasi-judicial comprehensive plan map amendments application are processed through a Type III-Modified procedure, as provided in Section 18.710.080, which is decided by the City Council with a recommendation by Planning Commission.

3. A Quasi-judicial zoning map amendments application that requires a comprehensive map plan amendment are processed through a Type III-Modified procedure, as provided in Section
18.710.080, which is decided by the City Council with a recommendation by Planning Commission.

Chapter 18.810
LOT LINE ADJUSTMENTS AND CONSOLIDATIONS

18.810.020 Approval Process

A. Approval process. Applications for lot line adjustments and lot consolidations are processed through a Type I procedure, as provided in Section 18.710.050.

18.810.030 Approval Criteria

A. Approval criteria. The approval authority will approve or approve with conditions an application for a lot line adjustment or lot consolidation when all of the following are met:

1. An additional lot is not created by the lot line adjustment or lot consolidation, and the existing lot or lots are not reduced below the minimum lot size.

2. The reconfigured proposed lots and existing structures comply with all applicable development standards.

3. The reconfigured proposed lots comply with the following:
   a. All lots intended for residential development must meet the density standard requirements for the housing type proposed.
   d. The depth of all lots does not exceed 2.5 times the average width, with the following exceptions:
      i. The lot is less than 1.5 times the minimum lot size, or
      ii. The lot is for a proposed cottage cluster or courtyard unit development.

   de. Each lot intended for quad, rowhouse, or single detached house development is rectilinear in shape with straight side lot lines at right angles to front lot lines, and straight rear lot lines parallel to front lot lines, except where not practicable due to location along a street radius or because of an existing natural feature or lot shape. Side and rear lot lines that are segmented may not contain cumulative lateral changes in direction that exceed 10 percent of the distance between opposing lot corners, as measured using the process of Subsection 18.40.060.C.

   ef. Each lot has a minimum of 40 feet of frontage on a public or private right-of-way, except for the following types of lots:

   fe. All setback requirements are met. The setback requirements for residential and nonresidential development are provided in the applicable development standards chapter in 18.200 Residential Development Standards or 18.300 Nonresidential Development Standards.

   gh. Lots using the density and dimensional standards for cottage cluster, courtyard unit, quad, and rowhouse development must record a deed restriction that prohibits any type of development other than the type proposed with the lot line adjustment or consolidation application. This
Chapter 18.820
LAND PARTITIONS

18.820.030 Approval Process

A. Approval process. Applications for land partition are processed through a Type II procedure, as provided in Section 18.710.060.

18.820.040 Approval Criteria

The approval authority will approve or approve with conditions an application for a land partition when all of the following are met:

C. All proposed improvements meet city and applicable agency standards;

D. All proposed lots comply with the following:

1. Each lots created for residential development must meet the density standard requirements for the housing type proposed.

4. The depth of all lots does not exceed 2.5 times the average width, with the following exceptions:
   a. The lot is less than 1.5 times the minimum lot size, or
   b. The lot is for a proposed cottage cluster or courtyard unit development.

45. Each lot for quad, rowhouse, or single detached house development is rectilinear in shape with straight side lot lines at right angles to front lot lines, and straight rear lot lines parallel to front lot lines, except where not practicable due to location along a street radius or because of an existing natural feature or lot line shape. Side and rear lot lines that are segmented may not contain cumulative lateral changes in direction that exceed 10 percent of the distance between opposing lot corners, as measured using the process of Subsection 18.40.060.C.

56. Each lot has a minimum of 40 feet of frontage on a public or private right-of-way, except for the following types of lots:

67. All setback requirements are met. The setback requirements for residential and nonresidential development are provided in the applicable development standards chapter in 18.200 Residential Development Standards or 18.300 Nonresidential Development Standards.

78. Lots created using the density and dimensional standards for cottage cluster, courtyard unit, quad, and rowhouse development must record a deed restriction that prohibits any type of development other than the type proposed with the partition application. This deed restriction cannot be removed except through another land division process.

Chapter 18.830
SUBDIVISIONS

18.830.020 General Provisions
A. Approval through two-step process. An application for a subdivision is processed through a two-step process: the preliminary plat and the final plat.

18.830.030 Approval Process

A. Approval process. Applications for a preliminary plat are processed through a Type II procedure, as provided in Section 18.710.060. An application for subdivision may also be reviewed concurrently with an application for a planned development, as provided in Chapter 18.770, Planned Developments.

18.830.040 Approval Criteria—Preliminary Plat

A. Approval criteria. The approval authority will approve or approve with conditions an application for a preliminary plat when all of the following are met:

1. The proposed preliminary plat complies with the applicable zoning ordinance and other applicable regulations;

2. All proposed lots must comply with the following:
   
   b. The depth of all lots may not exceed 2.5 times the average width, unless the lot is less than 1.5 times the minimum lot size, or if the lot is for a proposed cottage cluster or courtyard unit development.

   b. Each lot for quad, rowhouse, or single detached house development is rectilinear in shape with straight side lot lines at right angles to front lot lines, and straight rear lot lines parallel to front lot lines, except where not practicable due to location along a street radius or because of an existing natural feature or lot lines. Side and rear lot lines that are segmented may not contain cumulative lateral changes in direction that exceed 10 percent of the distance between opposing lot corners.

   cd. Each lot has a minimum of 40 feet of frontage on a public or private right-of-way, except for the following types of lots:

   de. Lots created using the density and dimensional standards for cottage cluster, courtyard unit, quad, and rowhouse development must record a deed restriction that prohibits any type of development other than the type proposed with the subdivision application. This deed restriction cannot be removed except through another land division process.

18.830.050 Zero Lot Line Development

B. Approval criteria. The approval authority will approve or approve with conditions an application for a zero lot line development when all of the following are met:

1. There must be a 10-foot separation between each residential dwelling unit or garage;
A. Improvements.

7. The approval authority may approve adjustments to the standards of this chapter if compliance with the standards would result in an adverse impact on natural features such as wetlands, bodies of water, significant habitat areas, steep slopes, or existing mature trees. The approval authority may also approve adjustments to the standards of this chapter if compliance with the standards would have a substantial adverse impact on existing development or would preclude development on the property where the development is proposed. In approving an adjustment to the standards, the approval authority shall balance the benefit of the adjustment with the impact on the public interest represented by the standards. In evaluating the impact on the public interest, the approval authority shall consider the criteria listed in Paragraph 18.910.030.E. An adjustment to the standards may not be granted if the adjustment would risk public safety.

Chapter 18.920
ACCESS, EGRESS, AND CIRCULATION

18.920.030 General Provisions

E. Surfacing. Driveways and drive aisles must be paved with a dust-free, hard-surfaced material, or utilize a turf grid or open joint pavers.

F. Curb cuts. Curb cuts must be in compliance with Subsection 18.910.030.O.

G. Pedestrian access. Paths for pedestrian access and circulation are required to, through, and sometimes between development sites. Path standards are provided in 18.200 Residential Development Standards, 18.300 Nonresidential Development Standards, and Chapter 18.410, Off-Street Parking and Loading. Additional standards may also apply if the site is located in a plan district.

H. Inadequate or hazardous access.

I. Access management.

J. Minimum access requirements for residential uses.

1. Vehicle access, egress, and circulation for nonresidential uses must comply with the standards provided in Table 18.920.2.

<table>
<thead>
<tr>
<th>Required Parking Spaces</th>
<th>Minimum Number of Driveways Required</th>
<th>Minimum Access Width</th>
<th>Minimum Pavement</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-99</td>
<td>1</td>
<td>30 ft</td>
<td>24 ft curbs required</td>
</tr>
<tr>
<td>100+</td>
<td>2</td>
<td>30 ft</td>
<td>24 ft curbs required</td>
</tr>
<tr>
<td></td>
<td>1</td>
<td>50 ft</td>
<td>40 ft curbs required</td>
</tr>
</tbody>
</table>
2. Vehicular access to apartment structures must be within 50 feet of the first-story ground floor entrance or the first-story ground floor landing of a stairway, ramp, or elevator leading to the dwelling units.

KJ. Minimum access requirements for nonresidential uses.

2. Vehicular access must be provided to nonresidential commercial or industrial uses, and be located within 50 feet of the primary first-story ground floor entrances;

LK. One-way vehicular access points. Where a proposed parking facility indicates only one-way traffic flow on the site, it must be accommodated by a specific driveway serving the facility; the entrance drive must be situated closest to oncoming traffic and the exit drive must be situated farthest from oncoming traffic.

ML. Director’s authority to restrict access. The Director has the authority to restrict access when the need to do so is dictated by one or more of the following conditions:
SECTION I. APPLICATION SUMMARY

CASE NAME: 2019 OMNIBUS TEXT AMENDMENTS

CASE NO.: Development Code Amendment (DCA) DCA2019-00002

PROPOSAL: The City of Tigard proposes text amendments to the Tigard Development Code (TDC). The text amendments include the following:

1. Streamline the current residential use categories into a single category;
2. Update housing regulations to comply with state requirements (House Bill 2001);
3. Revise lot standards in the land division chapters; and
4. Clean up minor inconsistencies and omissions.

The proposed text and map amendments for the Planning Commission’s review are included in Attachment 1 and summarized below in Section IV of this report:

APPLICANT: City of Tigard
13125 SW Hall Blvd.
Tigard, OR 97223

ZONES: Citywide

LOCATION: Citywide

APPLICABLE REVIEW CRITERIA: Statewide Planning Goals 1 (Citizen Involvement), 2 (Land Use Planning); and 10 (Housing); METRO’s Urban Growth Management Functional Plan Titles 1 and 8; Comprehensive Plan Goals 1.1.2, 2.1.1, 2.1.3, 2.1.19, 10.1.1. and 10.1.2, and Tigard Development Code Chapters 18.710 and 18.790.

SECTION II. PLANNING COMMISSION RECOMMENDATION

Planning Commission recommends approval by ordinance of the proposed development code text amendments (Attachment 1) as further amended by staff and with any alterations as determined through the public hearing process.
SECTION III. BACKGROUND INFORMATION AND PROJECT SUMMARY

In January of 2019, the City completed a comprehensive multi-year effort to modernize and streamline the development code to provide a document that is easier to read, understand, and navigate. Phase I of the code update project, completed in 2017, concentrated on smaller non-policy issues and code reorganization. Phases IIA and B on policy changes related to housing policy, commercial and industrial development standards, parking standards, small cell wireless facilities, streamlined and updated procedures for land use approvals, further reorganization, and non-policy changes to language. Since the adoption in January, minor deficiencies were identified through implementation of the new code. This project is an effort to address these deficiencies to allow for better implementation.

The proposed amendments include streamlining the residential use categories into one category, Residential Use. The proposed use category now captures uses where the components of a dwelling unit are shared by residents, such as assisted living or memory care facilities. Currently, it was unclear whether these types of uses were considered residential or nonresidential and what standards to apply to them. These uses will now be considered residential and the applicable housing type chapter will apply.

The amendments also propose to allow cottage clusters, courtyard units, and quads in the R-1 and R-2 zones, and to remove the parking requirement for accessory dwelling units. This is a result of House Bill 2001 (HB 2001), which prohibits requirements for off-street parking for accessory dwelling units. HB 2001 also states that all cities with a population of 25,000 or more must allow middle housing types in all residential zones that allow for single detached houses.

The last change is to the land division chapters, Chapter 18.810, 18.820, and 18.830. These changes pertain to lot standards, specifically the lot width/depth standard and the rectilinear standard. The lot width and depth standard makes it burdensome for many existing lots that are narrow and deep, which were created in the County, to meet this criteria. The width/depth and the rectilinear standard also do not work well for nonresidential properties. Nonresidential lots can be different shapes and sizes unlike lots designed for residential uses, specifically for quads, rowhouses, and single detached houses.

The text changes also include a number of small changes that add clarifying language, reword confusing passages, and fix inadvertent oversights and omissions. Some of these include: change dwelling to housing unit and floor or level to story, update definitions for consistency, establish surfacing requirements for driveways, and clarification of standards.

**Chapter 18.30 Definitions**

Revises the housing type definitions to be consistent with housing type chapters. Clarifies the definition of Story and Basement to be consistent with the building code. Removed definition for First Story and Half Story.

**Chapter 18.40 Measurements**

Clarifies the measurement for building facade area.

**Chapter 18.60 Use Categories**
Revises the residential use categories into one category, Residential Use category. This category now includes facilities where the components of a dwelling unit are shared by residents, such as assisted living or memory care facilities. The use category was updated in all the base zone chapters.

**Chapter 18.120 Residential Zones**

Allows cottage clusters, courtyard units, and quads in the R-1 and R-2 zone.

**Chapter 18.210 Residential General Provisions**

Allows for the use of setback averaging using the method in Chapter 18.40, Measurements.

**Chapter 18.220 Accessory Dwelling Units**

Removes requirement for parking. Clarifies that lot coverage standards apply.

**Chapter 18.230 Apartments**

Addresses what standards apply to nonconforming apartment developments in the R-1 through R-7 zones.

**Chapter 18.410 Off-Street Parking and Loading**

Clarifies wording related to parking structures.

**Chapter 18.435 Signs**

Clarifies that awning signs can be attached to the top of the awning as long as they stay below the roof of the building. Signs in the MUE zone must meet the same standards as properties in the C-G zone.

**Chapter 18.440 Temporary Uses**

Clarifies that seasonal events taking place in the right-of-way and that have also received a special events permit are exempt from temporary use permits.

**Chapter 18.510 Sensitive Lands**

Adds significant tree groves to the list of sensitive lands.

**Chapter 18.660 Tigard Triangle Plan District**

Clarifies which of the adjustment types applies, Tigard Triangle or general adjustment.

**Chapter 18.715 Adjustments**

Modifies the approval criteria for adjustments.

**Chapter 18.810 Lot Line Adjustments and Consolidations**
Removes the lot width/depth standard and modifies the rectilinear standard to only apply to quads, rowhouse development, and single detached houses.

Chapter 18.820  Land Partitions

Removes the lot width/depth standard and modifies the rectilinear standard to only apply to quads, rowhouse development, and single detached houses.

Chapter 18.830  Subdivisions

Removes the lot width/depth standard and modifies the rectilinear standard to only apply to quads, rowhouse development, and single detached houses.

Chapter 18.920  Access, Egress, and Circulation

Adds standards for driveway surfacing.

Changes to City Council Draft

There were only minor changes from the Planning Commission draft and the proposed draft. The changes include:

- Addition of R-1 and R-2 zone in the development standards table, Table 18.270.1, in Chapter 18.270, Rowhouses, to provide development standards for rowhouses in the R-1 and R-2 zones; and
- Miscellaneous small changes including grammar and scrivener errors.

SECTION IV. APPLICABLE CRITERIA, FINDINGS AND CONCLUSIONS

STATEWIDE PLANNING GOALS AND GUIDELINES

State planning regulations require cities to adopt and amend Comprehensive Plans and land use regulations in compliance with the state land use goals. Because the proposed code amendments have a limited scope and the text amendments address only some of the topics in the Statewide Planning Goals, only applicable statewide goals are addressed below.

Statewide Planning Goal 1 – Citizen Involvement:
This goal outlines the citizen involvement requirement for adoption of Comprehensive Plans and changes to the Comprehensive Plan and implementing documents.

FINDING:  This goal has been met by complying with the Tigard Development Code notice requirements set forth in Section 18.710.110 (Legislative Procedure). Notices were sent by US Postal Service on November 7, 2019 to affected government agencies. Notice was mailed to persons on the latest version of the City’s interested parties list on November 7, 2019. A notice was published in the Tigard Times newspaper on November 14, 2019. Public notice was published to the City website prior to the public hearings. A minimum of two public hearings will be held (one before the Planning Commission and the second before the City Council) at which, an opportunity for public input is provided. A draft of the proposed code changes will be made available to the public for review prior to hearings and adoption. This goal is satisfied.

Statewide Planning Goal 2 – Land Use Planning:
This goal outlines the land use planning process and policy framework.

FINDING: The Department of Land Conservation and Development (DLCD) has acknowledged the City’s Comprehensive Plan as being consistent with the statewide planning goals. The Development Code implements the Comprehensive Plan. The Development Code establishes a process and standards to review changes to the Tigard Development Code in compliance with the Comprehensive Plan and other applicable state requirements. As discussed within this report, the applicable Development Code process and standards have been applied to the proposed amendment. This goal is satisfied.

Statewide Planning Goal 10 – Housing:
This goal requires cities and counties to provide adequate capacity for needed housing. OAR Chapter 660 Division 8, which implements Goal 10, states that “the purpose of the division is to ensure opportunity for the provision of adequate numbers of needed housing units, the efficient use of buildable land within urban growth boundaries, and to provide greater certainty in the development process so as to reduce housing costs.”

FINDING: The city conducted an analysis of housing needs and capacity in 2012 as part of an update to Chapter 10 of the Tigard Comprehensive Plan. This analysis found the capacity to build 6,714 units on 600 acres throughout the city. The analysis also found that 6,545 new units were needed by 2032. Once the types of needed housing were compared with the inventory of buildable lands, the capacity dropped to 6,457, a shortfall of 88 units.

The proposed code changes do not decrease housing supply or capacity. They will allow for increased density in the R-1 and R-2 zones were cottage clusters, courtyard units, and quads will now be allowed.

The city may only apply clear and objective standards to housing under Goal 10. These code changes include only clear and objective standards where applied to housing.

CONCLUSION: Based on the findings above and the related findings below, staff finds the proposed map and text amendments are consistent with applicable Statewide Planning Goals.

METRO’S URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN
State planning regulations require cities within the Metro service area to adopt and amend Comprehensive Plans and land use regulations in compliance with Metro’s Urban Growth Management Functional Plan. Because the proposed Code Amendments have a limited scope and the text amendments address only some of the topics in METRO’s Urban Growth Management Functional Plan, only applicable Titles are addressed below.

Title 1 – Housing Capacity
The Regional Framework Plan calls for a compact urban form and a “fair-share” approach to meeting regional housing needs. It is the purpose of Title 1 to accomplish these policies by requiring each city and county to maintain or increase its housing capacity except as provided in section 3.07.120.

FINDING: Title 1 has been met by increasing the housing capacity in Tigard. Allowing cottage clusters, courtyard units, and quads in the R-1 and R-2 zones will result in increased housing capacity. This title is satisfied.

Title 8 – Compliance Procedures
A city or county proposing an amendment to a comprehensive plan or land use regulation shall submit the proposed amendment to the COO at least 35 days prior to the first evidentiary hearing on the
amendment. The COO may request, and if so the city or county shall submit, an analysis of compliance of the amendment with the functional plan. If the COO submits comments on the proposed amendment to the city or county, the comment shall include analysis and conclusions on compliance and a recommendation with specific revisions to the proposed amendment, if any, that would bring it into compliance with the functional plan. The COO shall send a copy of comment to those persons who have requested a copy.

FINDING: Notice and a copy of the proposed code amendments were provided to Metro on October 28, 2019. No comments were received.

CONCLUSION: Based on the findings above, staff finds that the proposed map and amendments are consistent with Metro’s Urban Growth Management Functional Plan.

TIGARD COMPREHENSIVE PLAN
State planning regulations require cities to adopt and amend comprehensive plans and land use regulations in compliance with the state land use goals and consistent with their adopted comprehensive plan goals and policies. Because the development code amendments have a limited scope and the text amendments address only some of the topics in the Tigard Comprehensive Plan, only applicable comprehensive plan goals and associated policies are addressed below.

Comprehensive Plan Goal 1: Citizen Involvement
Policy 1.1.2: The City shall define and publicize an appropriate role for citizens in each phase of the land use planning process.

FINDING: This policy has been met by complying with the Tigard Development Code notice requirements set forth in Section 18.710.110 (Legislative Procedure). Notices were sent by US Postal Service on November 7, 2019 to affected government agencies. Notice was mailed to persons on the latest version of the City’s interested parties list on November 7, 2019. A notice was published in the Tigard Times newspaper on November 14, 2019. Public notice was published to the City website prior to the public hearings. A minimum of two public hearings will be held (one before the Planning Commission and the second before the City Council) at which, an opportunity for public input is provided. A draft of the proposed code changes will be made available to the public for review prior to hearings and adoption. This policy is satisfied.

Comprehensive Plan Goal 2: Land Use Planning
Policy 2.1.1: The City’s land use program shall establish a clear policy direction, comply with state and regional requirements, and serve its citizens’ own interests.

FINDING: The proposed text amendments to the development code comply with all state and regional requirements, as the previous findings indicate. The proposed amendments provide clarification to ambiguous, redundant, and contradictory language in the development code. The proposed amendments also address the requirement of HB 2001, as it related to accessory dwelling units and missing middle housing. This policy is satisfied.

Comprehensive Plan Goal 2: Land Use Planning
Policy 2.1.2: The City’s land use regulations, related plans, and implementing actions shall be consistent with and implement its Comprehensive Plan.

FINDING: As demonstrated in this staff report, the proposed text amendments are consistent with the Tigard Comprehensive Plan. This policy is satisfied.
Policy 2.1.3: The City shall coordinate the adoption, amendment, and implementation of its land use program with other potentially affected jurisdictions and agencies.

FINDING: Copies of the proposed text amendments were sent to affected agencies and each agency was invited to comment on the proposal, as required by Section 18.710.110 (Legislative Procedure) and discussed in Section V of this report. Comments submitted by affected agencies have been incorporated into this report and the proposed amendments. This policy is satisfied.

Policy 2.1.19: The Planning Commission may at any time recommend to the City Council that it consider initiating legislative amendments to the Comprehensive Plan, Plan/Zoning Maps, and/or Community Development Code.

FINDING: The recommendation of the Planning Commission regarding the proposed changes will be brought to the City Council for consideration of adoption. This policy is satisfied through the provisions of 18.710.110 (Legislative Procedure). This policy is satisfied.

Comprehensive Plan Goal 10: Housing
Policy 10.1.1: The City shall adopt and maintain land use policies, codes, and standards that provide opportunities to develop a variety of housing types that meet the needs, preferences, and financial capabilities of Tigard's present and future residents.

FINDING: The proposed text amendment will allow for development of cottage clusters, courtyard units, and quads in the R-1 and R-2 zones. This allows for a wider range of allowed housing types for present and future Tigard residents. This policy is satisfied.

Policy 10.1.2: The City's land use program shall be consistent with applicable state and federal laws.

FINDING: The proposed amendments will bring the development code into compliance with state laws. The proposed amendment addresses HB 2001. The proposed amendments include removal of off-street parking requirements for accessory dwelling units and allow for the development of cottage clusters, courtyard units, and quads in all residential zones that allow single detached houses. This policy is satisfied.

CONCLUSION: Based on the findings above, staff concludes that the proposed map and text amendments are consistent with applicable provisions of the Tigard Comprehensive Plan.

APPLICABLE PROVISIONS OF THE TIGARD DEVELOPMENT CODE

Section 18.790: Zoning Map and Text Amendments

18.790.020 Legislative Amendments
Legislative amendments are processed through a Legislative procedure, as provided in Section 18.710.110.

FINDING: The proposed amendments are legislative in nature. Therefore, the amendments will be reviewed under the Legislative Procedure as set forth in the CDC. This standard is met.

Section 18.710: Decision Making Procedures

18.710.110 Type IV Procedure
Notice of hearing.
1. All Legislative applications require two hearings, one before the Planning Commission and one before the City Council.

FINDING: This procedure requires public hearings by both the Planning Commission and City Council. The Planning Commission public hearing was conducted on December 2, 2019 and the City Council public hearing will be conducted on January 7, 2020. This standard is met.

2. A notice of hearing will be provided as required by state law, and an affidavit of mailing will be included in the record that identifies the mailing date and the names and addresses of the mailing recipients.

FINDING: State law provides for two specific noticing requirements for legislative changes. The first is notice to the Department of Land Conservation and Development (DLCD) of a proposed Post Acknowledgement Plan Amendment at least 35 days prior to the first hearing. Notice meeting this requirement was provided to DLCD on October 28, 2019, 35 days prior to the first hearing. Notice to property owners who may be affected by proposed text amendments was not required under the provisions of Measure 56. This standard is met.

CONCLUSION: Based on the findings above, staff concludes that the proposed map and text amendments are consistent with applicable provisions of the Tigard Development Code.

SUMMARY
CONCLUSION: As shown in the findings above, staff concludes that the proposed amendments are consistent with the applicable Statewide Planning Goals; METRO's Urban Growth Management Functional Plan; applicable Tigard Comprehensive Plan goals and policies, and the applicable provisions of the City’s implementing ordinances.

SECTION V. AGENCY COMMENTS

TVF&R, METRO, ODOT, DLCD, DEQ, ODFW, CWS, OR Historic Preservation Office, TTSD, Comcast Cable, Frontier Communications, NW Natural, PGE, Tigard Water District, and Tri-Met were notified of the proposed code text amendments.

The City did not receive any agency comments at the time this report was written.

SECTION VI. PUBLIC COMMENTS

No public comments have been received at the time of the staff report.
ATTACHMENTS:

1. Text Amendments
2. Draft Planning Commission Minutes

PREPARED BY: Agnes Lindor
Associate Planner

APPROVED BY: Tom McGuire
Assistant Community Development Director
OMNIBUS AMENDMENTS

Chapter 18.10
LEGAL FRAMEWORK

18.10.040 Consistency with Other Regulations

B. Other regulations. All uses and development must comply with all other applicable regional, state, and federal regulations.

2. Notwithstanding any other provision of this title, the Director has the authority to make an interpretation of reasonable accommodations in the application of this title when such accommodations may be necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling unit to the extent required by federal or state law. In considering whether an accommodation is reasonable, the Director may consider whether the request puts an undue burden or expense on the city and whether the proposed use creates a fundamental alteration in this title. The Director may ask for, or the applicant may voluntarily submit, additional information based on the requested accommodation, to determine whether the request creates an undue burden or a fundamental alteration. The accommodation may result in a permitted or conditional waiver of any limitation of this title. Determinations of reasonable accommodation are made through a Director determination, as provided in Chapter 18.730, Director Determinations.

18.10.060 Special Designations

C. Special areas. The following special areas are established in the city:

1. Special areas are shown on the following maps:

   c. Significant tree groves are shown on the “City of Tigard Significant Tree Grove Map,” adopted by reference. Significant tree groves are subject to voluntary regulations as provided in Chapter 18.520, Urban Forestry, Significant Tree Groves.

Chapter 18.30
DEFINITIONS

18.30.010 List of Terms

- D-
Dwelling-Related Definitions:
Dwelling Unit - See Dwelling-Related Definitions
Dwelling Unit-Related Definitions:

- S-
Story, First
Story, Half

18.30.020 Definitions
B. “B” definitions.

1. “Basement” - Any floor level below the first story in a building that does not meet the definition of a story, except that a floor level in a building having only one floor level is classified as a basement unless such floor level qualifies as first story as defined in this section.

D. “D” definitions.

14. Dwelling unit-related definitions:

a. “Dwelling unit” - A structure or portion thereof that is used for human habitation including permanent provisions for sleeping, cooking, and sanitation.

b. “Accessory dwelling unit” - An additional dwelling unit on a lot with a primary dwelling unit. An accessory dwelling unit is an independent living unit designed for residential occupancy by one or more people independent of the primary dwelling unit, with facilities for sleeping, cooking, and sanitation. An accessory dwelling unit may be attached or internal to the primary dwelling unit, or it may be detached from the primary dwelling unit. For the purposes of this title, internal accessory dwelling units are considered attached accessory dwelling units.

i. “Quad” - A type of attached housing dwelling unit consisting of two dwelling units on a first story, attached at a common sidewall, and two dwelling units on a second story, attached to the first story dwelling units at their common floor and ceiling.

j. “Rowhouse” - A type of attached housing that shares dwelling unit that is attached at a common side wall with one or more other dwelling units, but excluding apartments, courtyard units, and quads. A rowhouse is not attached at a ceiling or floor to other dwelling units.

R. “R” definitions.

4. “Residence” - See “dwelling unit.”

S. “S” definitions.

5. “Story” – See Oregon Residential Specialty Code. That portion of a building or structure included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story is that portion of a building or structure included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement or unused under floor space is more than six feet above grade as defined in this section for more than 50 percent of the total perimeter or is more than 12 feet above grade as defined in this section at any point, such basement or unused under floor space is considered as a story.

6. “Story, first” - The lowest story in a building or structure that qualifies as a story, except that a floor level in a building or structure having only one floor is classified as a first story, provided such floor level is not more than four feet below grade, as defined in this section, for more than 50 percent of the total perimeter, or more than eight feet below grade, as defined in this section, at any point.

7. “Story, half” - A story under a gable or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than two feet above the floor of such story. If the finished floor level directly above a basement or unused under floor space is not more than six feet above grade,
as defined in this section, for more than 50 percent of the total perimeter or is not more than 12 feet
above grade as defined in this section, at any point, such basement or unused under-floor space is
considered as a half story.

68. “Structure” - Any object that is built or constructed, and located in or on the ground, or that is
attached to something fixed to the ground. Structure includes buildings, decks, fences, towers, flag
poles, signs, and other similar objects. Structure does not include paved areas or vegetative
landscaping materials.

79. “Subdivision” - Division of a unit of land into four or more units of land within a calendar year
when such unit of land exists as a unit or contiguous units of land under a common ownership. The
term “subdivision” also applies to an area of land that has been subdivided.

840. “Substantial improvement” - Any repair, reconstruction, or improvement of a structure, the
cost of which equals or exceeds 50 percent of the market value of the structure either:

Chapter 18.40
MEASUREMENTS

18.40.050 Building Facade Area

The area of a specific facade of a building is determined by adding the square footage of surface area of
each section of wall visible from that perspective. For buildings with articulated facades more than one
wall along facade (for example, rooms jutting out from the main building or a building where each floor is
set back from the floor below), all of the walls are included in the total area. The total area does not include
any roof area. See Figure 18.40.9.

Chapter 18.60
USE CATEGORIES

18.60.020 Classification of Uses

A. Considerations.

2. The following items are considered to determine what use category the use is in, and whether the
activities constitute primary uses or accessory uses:

b. Relative amount of site or floor area space and equipment devoted to the activities;

18.60.040 Residential Use Categories Category

A. Characteristics:

1. Residential use is the occupancy of a dwelling unit by related or unrelated individuals. The
maximum number of residents who may occupy any given dwelling unit is determined by the
state building code.

2. Residential use also includes the occupancy of an institution or facility where the components
of a dwelling unit are shared by residents.
3. Residential occupancy is arranged on a month-to-month basis, at a minimum, or for longer periods of time.

4. Residential use may include any combination of care, training, or treatment.

B. Accessory uses: Accessory uses may include parking, recreational and social facilities, dining halls, and home occupations.

C. Examples: Examples include household living, group living, foster homes, dormitories, fraternities and sororities, monasteries and convents, nursing and convalescent homes, memory care facilities, group homes for disabled individuals, residential treatment programs, assisted living facilities, and progressive or continuing care facilities.

D. Exceptions:

1. Does not include uses meeting the definition of Temporary Shelter, Commercial Lodging, Detention Facility, or Medical Center.

2. Does not include dormitories, fraternities, or sororities where accessory to College uses.

A. Group Living.

1. Characteristics: Group Living is characterized by the residential occupancy of a dwelling unit by a group of unrelated individuals who do not meet the definition of Household Living. Tenancy is arranged on a month-to-month basis, or for a longer period. Uses where tenancy may be arranged for a shorter period are not considered residential. They are considered to be a form of transient lodging (see the Commercial Lodging or Temporary Shelter use categories). Large Group Living facilities may also be characterized by shared facilities for eating, hygiene, or recreation. The residents may or may not receive any combination of care, training, or treatment, as long as they also reside at the site. Group Living may include the State of Oregon definition of a residential facility. The maximum number of people who may reside in any given dwelling unit is determined by the state building code.

2. Accessory uses: Accessory uses commonly found are recreational facilities and parking.

3. Examples: Examples include dormitories; communes; fraternities and sororities; monasteries and convents; nursing and convalescent homes; some group homes for the physically and mentally disabled; and some residential programs for drug and alcohol treatment.

4. Exceptions:

   a. Does not include lodging meeting the definition of Temporary Shelter, Detention Facilities, or Commercial Lodging.

   b. Does not include lodging where the residents meet the definition of household, and where tenancy is arranged on a month-to-month basis, or for a longer period, which is classified as Household Living.

B. Household Living.
1. Characteristics: Household Living is characterized by the residential occupancy of a dwelling unit by a household. Tenancy is arranged on a month-to-month basis, or for a longer period. Uses where tenancy may be arranged for a shorter period are not considered residential. They are considered to be a form of transient lodging (see the Commercial Lodging or Temporary Shelter use categories). Apartment complexes that have accessory services such as food service, dining rooms, and housekeeping are included as Household Living if tenancy meets length of stay requirements and residents have access to facilities for individual meal preparation. The maximum number of people who may reside in any given dwelling unit is determined by the state building code.

2. Accessory Uses: Accessory uses commonly found are recreational activities, keeping of common household pets, hobbies, and parking of the occupants’ vehicles. Home occupations are subject to additional regulations.

3. Examples: Examples include living in houses, accessory dwelling units, apartments, condominiums, retirement center apartments, manufactured housing, and other structures with self-contained dwelling units. Includes most types of senior housing, for example congregate care and assisted living, if residents live in self-contained units.

4. Exceptions: Does not include lodging where tenancy may be arranged for periods less than 1 month. Such uses are classified as either Commercial Lodging or Temporary Shelter. (Ord. 18-28 §1; Ord. 18-23 §2; Ord. 10-15 §1)

18.60.050 Civic Use Categories

L. Temporary Shelter.

4. Exceptions:
   b. Does not include residential uses meeting the definition of Residential Use Household Living or Group Living.

18.60.060 Commercial Use Categories

D. Commercial Lodging.

4. Exceptions: Does not include uses meeting the definition of Residential Use Group Living or Temporary Shelter.

18.60.080 Other Use Categories

A. Agriculture/Horticulture.

1. Characteristics: Agricultural/Horticultural uses are open areas devoted to the raising, production, or keeping of plants or animals being raised for food or fiber production. Sales of products grown on site may be included.

2. Accessory uses: Accessory uses include dwellings units for proprietors and animal training.

C. Detention Facilities.
4. Exceptions: Programs that provide care and training or treatment for psychiatric, alcohol, or drug problems, where patients are residents of the program, but where patients are not supervised by public safety personnel, are classified as Residential Use Group Living or Medical Center uses.

Chapter 18.110
RESIDENTIAL ZONES

18.110.030 Land Use Standards

<table>
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<tr>
<th>Table 18.110.2 Use Table</th>
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</thead>
<tbody>
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<td>Use Categories</td>
</tr>
<tr>
<td>Residential Use Categories</td>
</tr>
<tr>
<td>Group Living Residential Use</td>
</tr>
<tr>
<td>Household Living</td>
</tr>
</tbody>
</table>

[6] Limited to the first story ground floor level of apartment developments and maximum square footage of 10 percent of the building.

18.110.040 Housing Types

A. A housing type is not a use category. It describes a type of development that can contain a Residential household living or group living use.

<table>
<thead>
<tr>
<th>Table 18.110.3 Housing Types</th>
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<tbody>
<tr>
<td>Housing Types</td>
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<tr>
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<td>Cottage Clusters (18.240)</td>
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<td>Single Detached Houses (18.290)</td>
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<tr>
<td>Attached Dwellings Units</td>
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<td>Accessory Dwelling Units (18.220)</td>
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<td>Apartments (18.230)</td>
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<td>Courtyard Units (18.250)</td>
</tr>
<tr>
<td>Rowhouses (18.280)</td>
</tr>
</tbody>
</table>

Chapter 18.120
COMMERCIAL ZONES

18.120.030 Land Use Standards
Table 18.120.1  
Commercial Zone Use Standards

<table>
<thead>
<tr>
<th></th>
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<tbody>
<tr>
<td>Residential Use Categories</td>
<td></td>
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<td></td>
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<td></td>
<td></td>
</tr>
</tbody>
</table>

[3] Residential uses are allowed on or above the second story floor of a mixed-use development where the first story ground floor contains an allowed commercial use.

18.120.050  Housing Types

A. A housing type is not a use category. It describes a type of development that can contain a Residential Use Household Living or Group Living-use.

Table 18.120.2  
Commercial Zone Housing Types

<table>
<thead>
<tr>
<th>Housing Types</th>
<th>C-G</th>
<th>MU-CBD</th>
<th>MUE</th>
<th>MUC-1</th>
<th>MUC</th>
<th>MUE 1 and 2</th>
<th>MUR 1 and 2</th>
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</thead>
<tbody>
<tr>
<td><strong>Detached Dwellings Units</strong></td>
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</tr>
<tr>
<td>Cottage Clusters (18.240)</td>
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<td>N</td>
<td>N</td>
<td>N</td>
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<td>Y</td>
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<tr>
<td><strong>Attached Dwellings Units</strong></td>
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<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Apartments (18.230)</td>
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<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Courtyard Units (18.250)</td>
<td>N</td>
<td>N</td>
<td>N</td>
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<tr>
<td>Quads (18.270)</td>
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Chapter 18.130  
INDUSTRIAL ZONES

18.130.030  Land Use Standards

Table 18.130.1  
Industrial Zone Use Standards

<table>
<thead>
<tr>
<th>Use Categories</th>
<th>I-P</th>
<th>I-L</th>
<th>I-H</th>
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<tbody>
<tr>
<td>Residential Use Categories</td>
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<td></td>
</tr>
<tr>
<td>Group Living</td>
<td>P</td>
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### Table 18.130.1
**Industrial Zone Use Standards**

<table>
<thead>
<tr>
<th>Use Categories</th>
<th>I-P</th>
<th>I-L</th>
<th>I-H</th>
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</thead>
<tbody>
<tr>
<td>Household Living Residential Use [1]</td>
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<td>R</td>
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</tbody>
</table>

### Chapter 18.140
**PARKS AND RECREATION ZONE**

**18.140.040 Land Use Standards**

#### Table 18.140.1
**Parks and Recreation Zone Use Standards**

<table>
<thead>
<tr>
<th>Use Categories</th>
<th>Use Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential Use Categories</td>
<td></td>
</tr>
<tr>
<td>Group Living Residential Use</td>
<td>P</td>
</tr>
<tr>
<td>Household Living</td>
<td>P</td>
</tr>
</tbody>
</table>

### Chapter 18.210
**RESIDENTIAL GENERAL PROVISIONS**

**18.210.030 Exceptions to Setback and Height Standards**

**B. Exceptions to minimum setbacks.**

4. Fireplaces and chimneys may project a maximum of 3 feet into a required setback provided the projection does not reduce the width of any setback to less than 3 feet.

8. In the R-12 zone, bay windows and projections with floor area may project into a required interior side or street side setback by 1 foot provided the projections do not:

9. The front setback of the front facade of the primary structure may be reduced to the average of the respective setbacks on the abutting lots using the method in Section 18.40.070. Garage setbacks may not be reduced.

### Chapter 18.220
**ACCESSORY DWELLING UNITS**

**18.220.010 Purpose**

The purpose of this chapter is to provide clear and objective standards for the establishment of accessory dwelling units on lots with single detached houses to achieve the following:

A. Increase the number of affordable dwelling units;

**18.220.050 Standards**

A. Number of dwelling units.
2. A maximum of 1 detached accessory dwelling unit is allowed per single detached house. A second accessory dwelling unit must be attached to the primary dwelling unit.

B. Size.

2. The square footage of each attached accessory dwelling units may not exceed the square footage of the primary dwelling unit.

E. Lot coverage. Accessory dwelling units must meet the lot coverage standards for a single detached house in the base zone.

F. Entrances. Only one attached accessory dwelling unit may have an entrance on the facade facing the front property line. The entrance to a second attached accessory dwelling unit must be oriented to a side, street side, or rear lot line.

F. Parking.

1. In addition to the number of parking spaces required for the primary unit, a minimum of 1 off-street parking space must be provided for each accessory dwelling unit. Lots within 2,500 feet of a right-of-way that includes transit service are exempt from the additional parking requirement for the accessory dwelling unit.

2. An on-street parking credit may be granted for the required accessory dwelling unit parking according to the standards of Section 18.410.090.

Chapter 18.230
APARTMENTS

18.230.010 Purpose

Apartments are a type of attached housing within single-story or multi-story buildings. Apartment dwelling units may share common side walls, ceilings, or floors. The purpose of this chapter is to provide standards that promote quality development and enhance the livability, walkability, and safety of the community. Apartment development is intended to achieve the following:

A. Increase the number of affordable dwelling housing units;

18.230.020 Applicability

B. The standards of this chapter also apply to nonconforming apartment development in the R-1 through R-7 zones. In lieu of specific base zone standards, apartment development in these zones is subject to the R-12 zone standards.

C. Apartment development in the MUC-1 zone is subject to the standards of Chapter 18.620, Bridgeport Village Plan District.

D. This chapter does not apply to apartment development in the MU-CBD and TMU zones. Apartment development in these zones is subject to the approval processes and standards of Chapter 18.650, Tigard Downtown Plan District, and Chapter 18.660, Tigard Triangle Plan District, respectively.

18.230.040 Development Standards
C. Common open space.

3. At least 50 percent of the dwelling units in a development must face outdoor common open space or a public street. This standard is met when the front door or a window from the kitchen, living room, or dining room of a dwelling unit faces the outdoor common open space or a public street.

18.230.050 Design Standards
A. Entrances.

2. For dwelling units without internal building access, a minimum of 1 entrance per dwelling unit must be visible and accessible from a public or private street, outdoor common open space, or drive aisle that has a curb and path adjacent to the dwelling unit.

C. Facade design.

1. All building facades that face a public or private street or outdoor common open space must include at least 2 different architectural features from the list provided below in subparagraphs a through j. An additional 2 different architectural features per facade are required on all buildings with 20 or more dwelling units. This standard may be met by including different architectural features on different facades of the same building. Buildings that do not include dwelling units are exempt from providing architectural features on facades that face common open areas, but must provide at least 2 different architectural features on all street-facing facades.

c. Roof offsets or dormers.
   ii. One dormer for each top-story floor dwelling unit that is a minimum of 4 feet in width and integrated into the roof form.

e. Distinct base and top. The first story ground floor is visually distinguished from the upper stories floors by including a belt course and at least one of the following:

h. Balconies. Balconies are included on all upper stories floors that meet the dimensional requirement for private open space provided in Subsection 18.230.040.D.

i. Covered porches or recessed entrances. All first-story ground floor dwelling units with individual entrances include at least one of the following:

j. Enhanced entrances or awnings. A building that provides internal access to dwelling units includes at least one of the following:
   ii. A permanent architectural feature above all first-story ground floor windows, such as an awning or series of awnings, that are at least as wide as each window, a maximum of 6 feet above the top of each window, and a minimum of 3 feet in depth. The architectural feature may project into the minimum front setback.
Cottage clusters are groups of four to twelve detached dwelling units that are of smaller size than the typical single detached house. The purpose of this chapter is to provide standards that promote quality development and enhance the livability, walkability, and safety of the community. Cottage cluster development is intended to achieve the following:

A. Increase the number of affordable dwelling units;

E. Facilitate more efficient use of land through smaller dwelling units.

18.240.050 Development Standards

A. Density. The required density of a cottage cluster development is determined according to the following:

1. A cottage cluster development must contain a minimum of 4 dwelling units and a maximum of 12 dwelling units; and

2. One cottage dwelling unit is required for every 2,500 square feet of lot area. Any designated sensitive lands on the lot are included in the lot area. Any required dedications for public improvements are not included in the lot area.

D. Common courtyard. A common courtyard must be provided. The common courtyard must be sized and located to contain a rectangle that meets the following:

4. Cottage Dwelling units and parking and maneuvering areas are prohibited within the rectangle.

E. Location of dwelling units.

1. The cottage dwelling units must be arranged around the required common courtyard.

2. A minimum of two dwelling-cottage units in each development must be within 20 feet of a street property line.

F. Configuration of dwelling units. All dwelling units must be detached, with a minimum separation of 3 feet.

G. Parking. The provisions and standards of Sections 18.410.030 and 18.410.040 apply, except for Subsection 18.410.040.E. The following additional standards also apply:

1. Number of spaces.

   a. A minimum of 1 off-street parking space must be provided for each cottage dwelling unit. If the lot is within 2,500 feet of a right-of-way that includes transit service, this parking minimum is reduced by half. Fractional space requirements must be counted as a whole space.

   c. A maximum of 1.2 off-street parking spaces are allowed for each cottage dwelling unit.

3. Location.

   c. All parking areas, including garages, must be separated by a minimum of 10 feet on all sides from all other parking areas, parking structures, and dwelling-cottage units on the site. This area must meet the L-2 standard, as provided in Table 18.420.1, except that trees are not required.
H. Pedestrian access. An accessible path must be provided that connects the main entrance of each
dwelling cottage unit to the following:

18.240.060 Design Standards

A. Floor area.
   1. The maximum floor area of a single-story cottage dwelling unit is 1,000 square feet.
   2. The maximum floor area of a multi-story cottage dwelling unit is 1,200 square feet.
   3. The average floor area of all cottage dwelling units in a development must not exceed 1,100 square feet.

B. Height. The maximum height of cottage dwelling units is 25 feet.

C. Entrances. A minimum of 75 percent of the cottage dwelling units in a development must have their main entrances face the required common courtyard. Cottage Dwelling units within 20 feet of a street property line with their entrances oriented to the street may count toward this standard. (Ord. 18-23 §2)

Chapter 18.250
COURTYARD UNITS

18.250.010 Purpose

Courtyard units are groups of five to twelve attached dwelling housing units that are of smaller size and scale than other attached housing types such as apartments and rowhouses. The purpose of this chapter is to provide standards that promote quality development and enhance the livability, walkability, and safety of the community. Courtyard unit development is intended to achieve the following:

A. Increase the number of affordable dwelling housing units;
E. Facilitate more efficient use of land through smaller dwelling housing units.

18.250.040 General Provisions

All lots approved for courtyard unit development through the provisions of this chapter will be conditioned to record a deed restriction prohibiting any type of development other than courtyard unit development on the lot. This deed restriction cannot be removed except through a land division or lot line adjustment process that brings the lot into conformance with the standards for development of other housing types. A courtyard unit development deed restriction imposed as a condition of a previous or concurrent land division or lot line adjustment process meets this standard. (Ord. 18-28 §1; Ord. 18-23 §2)

18.250.050 Development Standards

A. Density. The required density of a courtyard unit development is determined according to the following:
   1. A courtyard unit development must contain a minimum of 5 dwelling units and a maximum of 12 dwelling units.
2. One dwelling courtyard unit is required for every 2,000 square feet of gross lot area. Any designated sensitive lands on the lot are included in the gross lot area. Any required dedications for public improvements are not included in the lot area.

D. Common courtyard. A common courtyard must be provided. The common courtyard must be sized and located to contain a rectangle that meets the following:

3. Courtyard Dwelling units and parking and maneuvering areas are prohibited within the rectangle.

E. Configuration of dwelling units. Courtyard Dwelling units must be attached, except that the dwelling units may be provided in 2 detached buildings of at least 3 dwelling units each. See Figure 18.250.2.

F. Location of dwelling units. The dwelling courtyard units must be arranged around the common courtyard. If dwelling courtyard units are provided in 2 detached buildings, the buildings must face each other across the common courtyard. See Figure 18.250.2.

**Figure 18.250.2 Possible Courtyard Unit Configurations and Locations of Dwelling Units**

G. Parking. The provisions and standards of Sections 18.410.030 and 18.410.040 apply, except for Subsection 18.410.040.E. The following additional standards also apply:

1. Number of spaces.
   a. A minimum of 1 off-street parking space must be provided for each dwelling courtyard unit. If the lot is within 2,500 feet of a right-of-way that includes transit service, this parking minimum is reduced by half. Fractional space requirements must be counted as a whole space.
   c. A maximum of 1.2 off-street parking spaces are allowed for each dwelling courtyard unit.

3. Location.
   a. All parking areas, including parking structures, must be separated by a minimum of 10 feet on all sides from all other parking areas, parking structures, and dwelling courtyard units on the site. This area must meet the L-2 standard, as provided in Table 18.420.1, except that trees are not required.
   d. Parking may be provided under the first story of the courtyard dwelling units, provided that this parking is accessed from the rear of the building and is not visible from the street.

H. Pedestrian access. An accessible path must be provided that connects the main entrance of each courtyard dwelling unit to the following:

**18.250.060 Courtyard Unit Design Standards**

A. Floor area.

1. The maximum floor area of each individual dwelling unit in a courtyard unit development is 1,200 square feet.

2. The average floor area of all dwelling units in a courtyard unit development must not exceed 1,000 square feet.
C. **Entrances.** A minimum of 75 percent of the courtyard dwelling units in a development must have their main entrances face the required common courtyard. Courtyard Dwelling units within 20 feet of a street property line with their entrances oriented to the street may count toward this standard.

---

**Chapter 18.260**
**MOBILE HOME PARKS**

**18.260.010 Purpose**

The purpose of this chapter is to establish standards for the placement of mobile homes in mobile home subdivisions and park developments.

**18.260.040 Mobile Home Park Standards**

A. **Minimum development standards.** Mobile home park development must meet the following minimum development standards:

6. Sixty square feet of outdoor recreation area, suitably improved for recreational use, provided for each dwelling unit in addition to required setbacks. Each recreation area must be a minimum size of 2,500 square feet;

B. **Other standards.**

3. Each dwelling unit must be served with a water, sewer, and electrical connection. The electrical connection must provide for 110 and 220-volt service.

10. The wheels, tongue, and traveling lights of each mobile home in a mobile home park or subdivision must be removed upon installation of unit.

13. Primary access to the mobile home park must be from a public street and comply with Chapter 18.920, Access, Egress, and Circulation; and

b. Access driveways connecting units to a public street must be at least 36 feet, of which at least 20 feet must be paved; and

c. Driveways must be designed to provide for all maneuvering and parking of units without encroaching on a public street.

---

**Chapter 18.270**
**QUADS**

**18.270.010 Purpose**

Quads are a type of attached housing groups of four housing units with two dwelling units side-by-side on the first story, a ground floor and two dwelling units side-by-side on the second story floor. The dwelling units are of smaller size than the typical apartment or single detached house. The purpose of this chapter is to provide standards that promote quality development and enhance the livability, walkability, and safety of the community. Quad development is intended to achieve the following:

A. Increase the number of affordable dwelling housing units;
D. Allow development of attached multi-unit housing that is similar in size and form to single detached houses;

F. Facilitate more efficient use of land through smaller dwelling units.

18.270.050 Development Standards

A. Number of dwelling units. A quad development must contain four dwelling units. Two dwelling units must be wholly contained within a ground first story. Two dwelling units must be wholly contained within a second story.

B. Density. Minimum and maximum densities are determined by the required number of dwelling units and the lot size standards of Table 18.270.1.

18.270.060 Design Standards

D. Exterior staircases. Exterior staircases to the second story floor of a quad are prohibited.

18.280.010 Purpose

Rowhouses are a type of attached housing that share common side walls. The purpose of this chapter is to provide standards that promote quality development and enhance the livability, walkability, and safety of the community. Rowhouse development is intended to achieve the following:

A. Increase the number of affordable dwelling units;

E. Facilitate more efficient use of land through smaller dwelling units.

18.280.020 Applicability

B. The standards of this chapter also apply to nonconforming rowhouse development in the R-1 through R-4.5 zones. In lieu of specific base zone standards, rowhouse development in these zones is subject to the R-7 zone standards.

CB. Rowhouse development in the MUC-1 zone is subject to the standards of Chapter 18.620, Bridgeport Village Plan District.

DC. This chapter does not apply to rowhouse development in the MU-CBD and TMU zones. Rowhouse development in these zones is subject to the approval processes and standards of Chapter 18.650, Tigard Downtown Plan District, and Chapter 18.660, Tigard Triangle Plan District, respectively.

18.280.050 Development Standards

A. Number of dwelling units. A rowhouse development must contain at least two dwelling units. There is no maximum number of dwelling units, except that in the R-7 zone, the maximum number of dwelling units per grouping is 5.
E. **Parking.** The provisions and standards of Sections 18.410.030 and 18.410.040 apply, except for Subsection 18.410.040.E. The following additional standards also apply:

2. Access. Access to off-street parking areas for rowhouse development may be taken through tandem driveways, shared access, or from an alley. The following requirements apply to each situation in addition to the relevant sections of Chapter 18.920, Access, Egress, and Circulation.

   a. Tandem driveways. If access is taken from a street other than an alley and access is not shared development-wide, the following standards apply. See Figure 18.280.1 for examples.

      i. A maximum of 1 driveway is allowed for every 2 rowhouse dwelling units, except that each rowhouse grouping of three or more dwelling units may include 1 driveway that provides access to a single dwelling unit. Shared access is subject to the requirements of Subsection 18.920.030.C.

   b. Shared access. If access for all dwelling units in a rowhouse development is shared and off-street parking areas are provided at the side or rear of a rowhouse development rather than at the front of each rowhouse dwelling unit, the minimum paved width of the shared access is 20 feet and the maximum width is 24 feet.

   c. Alley access. If access is taken from an alley, the following standards apply:

      i. A maximum of one access is allowed for each rowhouse dwelling unit.

F. **Pedestrian access.** Rowhouse developments of 5 or more dwelling units must provide a paved, accessible pedestrian path that connects the main entrance of each rowhouse to the following:

<table>
<thead>
<tr>
<th>Table 18.280.1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Development Standards for Rowhouses</td>
</tr>
</tbody>
</table>

[1] This standard does not apply to a common wall lot line where the dwelling units are attached.

18.280.060 **Design Standards**

B. **Unit Dwelling unit definition.** Each dwelling unit must include at least one of the following on the street-facing facade:

G. **Windows.** A minimum of 12 percent of the area of all street-facing facades on each individual dwelling unit must include windows or entrance doors. Window area is the aggregate area of the glass within each window, including any interior grids, mullions, or transoms. Door area is the area of the portion of a door other than a garage door that moves and does not include the frame. Half of the window area in the door of an attached garage may count toward meeting this standard. (Ord. 18-28 §1)
[1] Development standards for single detached houses and allowed accessory uses and structures in the R-25 zone apply only to lots with existing nonconforming development. New construction of single detached houses is not allowed except as provided in Chapter 18.50, Nonconforming Circumstances.

18.290.040 Design Standards

A. **Entrances.** The main entrance to a single detached house must meet the following standards:

Chapter 18.320

COMMERCIAL ZONE DEVELOPMENT STANDARDS

18.320.050 Design Standards

B. **Windows.** Buildings or tenant spaces designed for first-story ground floor use by Eating and Drinking Establishments, Sales-Oriented Retail, Repair-Oriented Retail, Personal Services, and Office uses must include a minimum of 50 percent window area on all first-story ground floor street-facing facades.

18.320.060 Additional Standards for C-N, C-C, and C-G Zones

A. **C-N and C-C zones.** The following standards apply to development in the C-C and C-N zones in addition to all other applicable standards of this title.

3. Building design.

   a. All street-facing facades must provide a minimum of 50 percent of window area on all first-story ground floor facades and a minimum of 30 percent of window area on all upper-story floor facades, except that residential uses on upper stories must provide a minimum of 15 percent of window area.

B. **C-G zone within the Tigard Triangle.** The following standards apply to development in the C-G zone within the Tigard Triangle. These standards apply in addition to all other applicable standards of this title and govern in the event of a conflict. See Chapter 18.660, Tigard Triangle Plan District, for additional transportation facility standards and Map 18.660.A for the location of the C-G zone within the Tigard Triangle.

   2. All street-facing facades within the required setbacks must include windows on a minimum of 50 percent of the first-story ground floor façade area. First-story ground floor façade area is measured from 3 feet above grade to 9 feet above grade the entire length of each street-facing facade.

Chapter 18.330

INDUSTRIAL ZONE DEVELOPMENT STANDARDS

18.330.040 Development Standards

B. **Landscaping and screening.** All required landscaping, including landscaping used to meet screening or tree canopy standards, is subject to the general provisions of Chapter 18.420, Landscaping and Screening.
1. The minimum landscape area standard is provided in Table 18.330.1. Landscaping standards are provided in Section 18.420.040. Any landscape area that meets the L-2 standard may count toward meeting the minimum area standard.

Chapter 18.350
RESIDENTIAL ZONE DEVELOPMENT STANDARDS

18.350.050 Design Standards

C. Facade design. All street-facing facades must include at least 3 architectural features from the list below on the entirety of the facade. Different features may be used on different facades of the same building.

5. Distinct base and top. The first story is visually distinguished from the upper stories by including a belt course and at least one of the following:

7. Enhanced entrances or awnings.
   b. A permanent architectural feature is provided above all first-story ground floor windows, such as an awning or series of awnings, that are at least as wide as each window, a maximum of 6 feet above the top of each window, and a minimum of 3 feet in depth.

Chapter 18.410
OFF-STREET PARKING AND LOADING

18.410.060 Parking Structure Design Standards

A. First-story ground floor windows and wall openings. All parking structures must provide floor windows or wall openings along street frontages. Blank walls are prohibited. All street-facing facades any wall facing the street must include contain windows, doors, or display areas equal to at least on a minimum of 20 percent of the first-story facade area ground floor wall area facing the street excluding those portions of the facade devoted to vehicular access, driveway entrances and exits, stairwells, elevators, and centralized payment booths. Required windows must have a sill no more than 4 feet above grade. Where the interior floor level prohibits such placement, the sill may be raised to allow it to be no more than 2 feet above finished floor wall up to a maximum sill height of 6 feet above grade.

Chapter 18.435
SIGNS

18.435.090 Special Condition Signs

E. Awning signs.

3. The standards for awning signs in all other zones are provided below.

   a. The copy on awning signs may not extend above the upper surfaces of the awning structure, provided it does not extend above the roof of the associated building. They may be hung below the awning if the sign clears the sidewalk by at least 8.5 feet;

18.435.130 Base Zone Regulations
B. **C-G and MUE zones.** Signs other than the following are prohibited in the C-G and MUE zones:

G. **MU-CBD and TMU zones.** The following signs are allowed in the TMU zone and the MU-CBD zone, except that MU-CBD zoned properties located west of Fanno Creek within the Fanno-Burnham Subarea of the Tigard Downtown Plan District are subject to the residential zone sign standards in Subsection 18.435.130.A and MU-CBD zoned properties north of Pacific Highway or with frontage on Pacific Highway or Hall Boulevard are subject to the C-G zone sign standards in Subsection 18.435.130.B.

4. Projecting signs, including awning signs.
   
   b. A building may have the following additional projecting signs:
      
      ii. A building may have one or more additional projecting signs where the signs are perpendicular to the building face, less than 4.5 square feet in size per sign face, and located less than 10 feet from sidewalk grade as measured from the top of sign. The number of additional signs may not exceed the number of first-story ground floor tenant spaces in the building.

5. Pedestrian-oriented roof signs.
   
   b. The maximum number of signs allowed is equal to the number of first-story ground floor tenant spaces in the building.

6. A-frame signs.
   
   a. The maximum number of A-frame signs allowed is equal to the number of first-story ground floor tenant spaces in the building or the equivalent of one sign for every 30 linear feet of street-facing building facade, whichever is greater.

H. **Mixed-use zones except MU-CBD and TMU zones.** Sign standards for the MUE, MUE-1, MUE-2, MUC, MUC-1, and MUR zones are located in their respective plan districts in Chapter 18.620, Bridgeport Village Plan District, and Chapter 18.670, Washington Square Regional Center Plan District.

### Chapter 18.440

**TEMPORARY USES**

**18.440.020 Applicability**

C. **Temporary uses allowed.** The following temporary uses are allowed without a temporary use permit:

5. Seasonal and special events located entirely within the PR zone, or public right-of-way, or city-owned property provided the use has received a special event permit pursuant to Tigard Municipal Code Chapter 7.48 in the PR zone has been approved by the Public Works Director or designee, and the use in the public right-of-way has been approved by the Police Chief or designee.

**18.440.030 Types of Temporary Uses**
B. **Unforeseen or emergency situations.** This type of temporary use is a use that is needed because of an unforeseen event such as fire, windstorm, flood, unexpected health or economic hardship, or due to an eviction resulting from condemnation or other proceedings. Examples of this type of temporary use include:

3. Use of an existing dwelling or mobile or manufactured home during the construction period of a new **dwelling unit** residence on the same lot.

C. **Temporary sales office or model home.** This type of use includes a temporary sales office or offices either in a **dwelling housing** unit or in another temporary building for the purpose of facilitating the sale of real property in any subdivision or property within this city. This includes the use of one **dwelling unit** in a subdivision as a “model home” for purposes of showing prospective buyers.

18.440.050 Approval Criteria

C. **Temporary sales office or model home.** The approval authority will approve or approve with conditions a temporary sales office or model home when all of the following are met:

2. Model home.

   b. The property to be used for a model house must be a permanently designed dwelling **unit** structure.

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**Chapter 18.510**

**SENSITIVE LANDS**

18.510.010 **Purpose**

G. **Location.** Sensitive lands are lands potentially unsuitable for development because of their location within:

1. The special flood hazard area or 1996 flood inundation line, whichever is greater;

2. Natural drainageways;

3. Wetland areas that are regulated by the other agencies including the U.S. Army Corps of Engineers and the Division of State Lands, or are designated as significant wetland on the City of Tigard “Wetland and Stream Corridors Map”;

4. Steep slopes of 25 percent or greater and unstable ground; and

5. Significant fish and wildlife habitat areas designated on the City of Tigard “Significant Habitat Areas Map.”

6. **Significant tree groves as shown on the “City of Tigard Significant Tree Grove Map”**.

18.510.020 **Applicability**

B. **Allowed uses with no approval required.** Except as provided below and by Subsections 18.510.020.D, F, and G of this section, the following uses are allowed uses within drainageways, slopes that are 25 percent or greater, and significant tree groves:
percent or greater, and unstable ground when the use does not involve paving. For the purposes of this chapter, the word “structure” excludes: children’s play equipment, picnic tables, sand boxes, grills, basketball hoops, and similar recreational equipment.

7. Fences; except in a water quality sensitive area or vegetated corridor, as defined in the CSW “Design and Construction Standards”; or the Statewide Goal 5 vegetated corridor established for the Tualatin River, as defined in Section 18.510.080.

8. Accessory structures that are less than 120 square feet in size; except in a water quality sensitive area or vegetated corridor, as defined in the CSW “Design and Construction Standards”; or the Statewide Goal 5 vegetated corridor established for the Tualatin River, as defined in Section 18.510.080.

9. Land form alterations involving up to 10 cubic yards of material; except in a water quality sensitive area or vegetated corridor, as defined in the CSW “Design and Construction Standards”; or the Statewide Goal 5 vegetated corridor established for the Tualatin River, as defined in Section 18.510.080.

18.510.040 General Provisions for Special Flood Hazard Areas

R. Definitions. The following definitions are only applicable to this chapter section:
## Chapter 18.510
### SIGNIFICANT TREE GROVES

<table>
<thead>
<tr>
<th>Residential Zone</th>
<th>Detached Sq. Ft. Percent Tree Grove Canopy Preserved/Min. Lot or Unit Area</th>
<th>Attached Sq. Ft. Percent Tree Grove Canopy Preserved/Min. Lot or Unit Area</th>
<th>Duplex Percent Tree Grove Canopy Preserved/Min. Lot or Unit Area</th>
<th>Multifamily Percent Tree Grove Canopy Preserved/Min. Lot or Unit Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>R-1 (30,000 sq ft per unit)</td>
<td>25-49%/22,500 sq ft 50-74%520%15,000 sq ft 75-100%/7,500 sq ft</td>
<td>Not Allowed</td>
<td>Not Allowed</td>
<td>Not Allowed</td>
</tr>
<tr>
<td>R-2 (20,000 sq ft per unit)</td>
<td>25-49%/15,000 sq ft 50-74%520%10,000 sq ft 75-100%/5,000 sq ft</td>
<td>Allowed with 75% or greater tree grove canopy preservation/5,000 sq ft</td>
<td>Not Allowed</td>
<td>Not Allowed</td>
</tr>
<tr>
<td>R-3.5 (10,000 sq ft per unit)</td>
<td>25-49%/7,500 sq ft 50-74%520%5,000 sq ft 75-100%/2,500 sq ft</td>
<td>Allowed with 75% or greater tree grove canopy preservation 2,500 sq ft</td>
<td>Allowed with 75% or greater tree grove canopy preservation/5,000 sq ft</td>
<td>Not Allowed</td>
</tr>
<tr>
<td>R-4.5 (7,500 sq ft per unit)</td>
<td>25-49%/5,625 sq ft 50-74%520%/3,750 sq ft 75-100%/1,875 sq ft</td>
<td>Allowed with 75% or greater tree grove canopy preservation/1,875 sq ft</td>
<td>Allowed with 75% or greater tree grove canopy preservation/3,750 sq ft</td>
<td>Not Allowed</td>
</tr>
<tr>
<td>R-7 (5,000 sq ft per unit)</td>
<td>25-49%/3,750 sq ft 50-74%520%/2,500 sq ft 75-100%/1,250 sq ft</td>
<td>Allowed with 75% or greater tree grove canopy preservation/1,250 sq ft</td>
<td>Allowed with 75% or greater tree grove canopy preservation/2,500 sq ft</td>
<td>Not Allowed</td>
</tr>
<tr>
<td>R-12 (3,050 sq ft per unit)</td>
<td>Apartment and single detached house transfer allowed at the following densities: 25-49% tree grove canopy preservation/2,288 sq ft/unit 50-74%520% tree grove canopy preservation/1,525 sq ft/unit 75-100% tree grove canopy preservation/763 sq ft/unit</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>R-25 (1,480 sq ft per unit)</td>
<td>Apartment and single detached house transfer allowed at the following densities: 25-49% tree grove canopy preservation/1,110 sq ft/unit 50-74%520% tree grove canopy preservation/5,200 sq ft/unit 75-100% tree grove canopy preservation/370 sq ft/unit</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>R-40 (None)</td>
<td>Apartments and single detached house transfer allowed with no upper density limit.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Chapter 18.620
BRIDGEPORT VILLAGE PLAN DISTRICT

18.620.070 Design Standards

D. Building design standards. Nonresidential buildings must comply with the standards below. Residential-only and mixed-use buildings where at least 50.1 percent of the floor area of the building is residential must comply with Section 18.620.080.

1. First-story ground floor windows. All street-facing facade elevations within the required building setback (0–10 feet) along public streets must include windows, doors, or display areas on a minimum of 50 percent of the first-story facade area ground floor wall area with windows, display areas, or doorway openings. The first-story facade ground floor wall area is measured from 3 feet above grade to 9 feet above grade the entire length of the street-facing facade elevation. The ground floor window requirement must be met within the ground floor wall area and for glass doorway openings to ground level. Up to 50 percent of the first-story ground floor window requirement may be met on an adjoining facade elevation provided all of the requirement is located at a building corner.

18.620.080 Design Compatibility Standards

A. Front facades. All primary first-story ground floor common entrances or individual unit entrances of street-facing frontage dwelling units must be oriented to the street, not to the interior or to a parking lot. The front facade elevation of large structures must be divided into smaller areas or planes of 500 square feet or less. Projecting features such as porches, balconies, bays, dormer windows, and roof pediments are encouraged for street-facing structures facing a street to create visual interest.

C. Unit definition. Each dwelling unit must be emphasized by including a roof dormer or bay windows on the street-facing facade elevation, or by providing a roof gable or porch that faces the street. First-story ground level dwelling units must include porches that are at least 48 square feet in area with no dimension less than 6 feet.

E. Trim detail. Trim must be used to mark all building roof lines, porches, windows, and doors that are on a primary structure’s street-facing facade elevations.

Chapter 18.630
DURHAM ADVANCED WASTEWATER TREATMENT FACILITY PLAN DISTRICT

18.630.090 Additional Standards for Conditional Uses Within the Administrative Subdistrict

B. Standards. Conditional uses within the administrative subdistrict are subject to the following:

2. First-story ground floor windows. All street-facing facade elevations along public streets must include windows on a minimum of 50 percent of the first-story facade areas ground floor wall area with windows or glazed doorway openings. The first-story facade ground floor wall area is measured from 3 feet above grade to 9 feet above grade the entire length of the street-facing facade elevation. Glazing covered with applied window film will not be considered in the calculation to meet this standard.
Chapter 18.640
RIVER TERRACE PLAN DISTRICT

18.640.070 Planned Developments

E. Design standards for single detached houses and rowhouses. The following design standards apply to single detached houses and rowhouses where the applicant chooses to provide them under Subparagraph 18.640.070.C.2.e or where required by Subsection 18.640.060.A. The design standards in Chapter 18.290, Single Detached Houses, and Chapter 18.280, Rowhouses, apply in all other situations.

5. Garages and carports. These standards are intended to prevent garages and carports from obscuring or dominating the street-facing facade of residential buildings. An illustration of garage door width is shown in Figure 18.640.6.

b. Garage door width. The width of a garage door is the width of the opening as measured from inside the garage door frame.

i. A dwelling unit is allowed one 12-foot-wide garage door, regardless of the total width of the street-facing facade.

ii. A dwelling unit may have a garage door wider than 12 feet provided that it does not exceed 40 percent of the total width of the street-facing facade on which the garage door is located.

18.640.100 On-Street Parking

B. Quantity standards. All single detached house development described in Subsection 18.640.100.A must provide the following number of on-street parking spaces:

1. For a dwelling unit with one off-street parking space, a minimum of 2 on-street parking spaces must be provided.

2. For a dwelling unit with two off-street parking spaces, a minimum of 1 on-street parking space must be provided.

3. For dwellings units with more than two off-street parking spaces, a minimum of 1 on-street parking space must be provided for every two lots with more than two off-street parking spaces that are adjacent to each other.

Chapter 18.650
TIGARD DOWNTOWN PLAN DISTRICT

18.650.010 Purpose

B. Sub-areas. The four sub-areas located on Map 18.650.B and described below have different development standards in order to create a feeling of distinct districts within the larger zone.

1. Highway 99W and Hall Boulevard Corridor. The purpose of this sub-area is to create a pulse-point along the Highway 99W corridor. Located at the intersection of 99W and Hall Boulevard, the area has the high traffic and visibility to draw potential retail customers from the region. The area will accommodate higher levels of vehicular circulation, while maintaining a pedestrian scale at the first story of buildings. It allows development of mixed-use and retail buildings that vary in scale from
single-story retail-only buildings to mixed-use buildings up to 45 feet tall with retail on the first story and residential or Office uses above.

3. Scoffins Street - Commercial Street. The purpose of this sub-area to provide an opportunity for higher-density residential as well as an employment base comprised of civic, office, and commercial uses in the areas of Commercial Street and Scoffins Street. Residential-only buildings, commercial buildings, and mixed-use developments are allowed.

18.650.020 Applicability

A. Applicability. The regulations of this chapter apply to the Tigard Downtown Plan District in addition to all other applicable regulations of this title. The boundaries of the plan district are shown on Map 18.650.A, which is located at the end of this chapter, and on the official zoning map.

2. Pre-existing uses and development. Pre-existing land uses and associated development that were lawfully established prior to the effective date of this chapter are treated as lawful or approved uses and developments, subject to the following:

18.650.050 Development Standards

B. Parking.

7. No parking is required for new commercial development up to 20,000 square feet in the Main Street-Center Street sub-area except that any apartments must provide a minimum of 1 parking space per unit.

Figure 18.650.1
Parking Location

18.650.060 Design Standards

A. Create vibrant first stories, streetscapes, and rights-of-way; provide weather protection; and promote safety and security.
2. Standards.

a. Street facade. Street-facing facades must be built in proximity to the street. This standard is met when at least 50 percent of the first-story front building elevation is located no further from the front property line than the maximum front setback standard provided in Table 18.650.1; and, where maximum street-facing side setbacks are required within the Main Street–Center Street sub-area, at least 50 percent of the first-story street-facing side building elevation is located no further from the street-facing side property line than the maximum street-facing side setback standard provided in Table 18.650.1.

b. Primary entrances.

i. Nonresidential and mixed-use buildings.

   (A) At least 1 entrance is required for each business with a first-story street-facing building elevation frontage.

   (C) All primary first-story common entrances must be oriented to the street or a public space directly facing the street, not to the interior or to a parking lot.

ii. Residential buildings.

   (B) All street-facing building elevations must include a primary first-story common entrance of apartment development buildings and individual unit entrances of rowhouses that are front the street must be oriented to the street or public right-of-way, not to the interior or to a parking lot.

c. Windows. Minimum window coverage includes any glazed portions of doors.

i. Nonresidential and mixed-use buildings.

   (A) The minimum window area of first-story street-facing facades is 60 percent.

   (B) First-story windows must have a visible transmittance (VT) of 0.6 or higher, with the exception of medical and dental offices, which may have tinted windows.

ii. Residential buildings. The minimum window area of first-story street-facing facades is 30 percent.

iii. Upper story floor windows for all buildings.

B. Cohesive architectural facade standards.

1. Purpose. Build and expand upon downtown Tigard’s architectural character by incorporating cohesive and repetitive architectural elements into the first story ground floor of street-facing facades. Relate to the horizontal facade articulation and massing of surrounding development or utilize building and site design elements that connect Fanno Creek Park or extend natural elements to the downtown.

2. Standard. Divide the street-facing first story ground floor of nonresidential and mixed-use storefronts into distinct architectural bays that are no more than 30 feet on center. For the purpose
of this standard, an architectural bay is defined as the zone between the outside edges of an engaged column, pilaster, post, or vertical wall area.

C. Integrated building facade standards.

1. Purpose. Build upon and improve downtown Tigard’s architecture by creating an attractive and unified building facade that encourages first-story ground floor activities and creates visually interesting facades and roofs.

2. Standards.
   a. Facades.
      i. Nonresidential and mixed-use buildings without residential component. Buildings 2 stories and above must have 3 clearly defined elements on the street-facing facade: a base (extends from the sidewalk to the bottom of the second story or the belt course that separates the first story ground floor from the middle of the building); a middle (distinguished from the top and base of the building by use of building elements); and a top (roof form or element at the uppermost portion of the facade that visually terminates the facade).

F. Outdoor Open space and public plaza.

1. Purpose. Assure adequate public, private, and shared outdoor space.

2. Standards.
   a. Nonresidential and mixed-use buildings without a residential component.
      i. Developments with sites areas greater than 60,000 square feet must include at least 1 public outdoor space with a minimum size of 600 square feet.
      ii. Public outdoor spaces must be abutted on at least 2 sides by retail shops, restaurants, or services with window entrances fronting on the space.

   b. Residential and mixed-use buildings with four or more dwelling units a residential component.
      i. Private outdoor space. For all residential only buildings and mixed-use buildings with more than 4 residential units, private open space, such as a private porch, a deck, a balcony, a patio, an atrium, or other private outdoor space private area, must be provided.
         (A) An average of 28 square feet of private outdoor space must be provided per unit in a development.
         (B) In order to be counted toward the private outdoor open space standard average, the private outdoor open space provided to each dwelling unit must be a minimum of 32 square feet, with a minimum depth of 4 feet.
         (C) The private outdoor open space provided must be contiguous with the dwelling unit.
         (D) Balconies used for entrances or exits are not considered as private outdoor open space except where such exits or entrances are for the sole use of the dwelling unit.
ii. Shared outdoor space **must be provided in addition to required private outdoor space. Examples include:** for mixed-use buildings with residential units and apartment developments. In addition to the required private outdoor space, apartments and mixed-use buildings with more than 4 residential units must provide shared open space (for example, courtyards, roof decks, gardens, play areas, outdoor recreation facilities, indoor recreation room, or similar space.) **Shared outdoor space must be a minimum of**, that is equal to or greater than 10 percent of the development site, except as follows:

(A) Up to 50 percent of the shared outdoor open space standard may be met by providing additional private outdoor open space, such as balconies, porches, and patios in addition to what is required in Subparagraph 18.650.060.F.2.a.

(B) A shared outdoor open space credit of 50 percent may be granted when an apartment development is directly adjacent to an improved public park.

(C) Credit for up to 100 percent of the shared outdoor open space standard may be met by paying a fee-in-lieu. The fee will fund parks or plazas within the downtown urban renewal district.

G. Additional requirements for rowhouses.

2. A **minimum of 100 square feet of private outdoor open space** such as a private porch, yard, a deck, a balcony, a patio, or other private outdoor space private area is required per dwelling unit.

18.650.070 Transportation Connectivity

A. Purpose. The purpose of this section is to implement the City of Tigard 2035 Transportation System Plan, which describes a more complete system of streets and pathways to improve multi-modal access to, from, and within the plan district downtown mixed-use central business district. The standards in this section are intended to execute connectivity improvement projects that will foster creation of smaller block sizes, efficient routes into and within downtown, and new streets to accommodate and encourage downtown development. The standards are also intended to solve some existing connectivity issues, such as access across railroad tracks.

C. Required new street and alley connections. Required new street and alley connections must be provided as follows.

1. For new development and for major redevelopment valued at more than 60 percent of its total current value as assessed by the Washington County assessor, the applicant must comply with the following:

2. For all other developments, projects other than new development and major redevelopment, the applicant must comply with the following:

18.650.100 Specific Adjustments

D. Adjustments to density and height. Qualified affordable housing developments are eligible for both density and height bonuses.

2. Approval criteria. To qualify for a density or height bonus, a development must meet the following:
a. The development meets the threshold for the requested bonus:

i. A height bonus of an additional 20 ft over the maximum height is allowed for any development where a minimum of 20 percent of the dwelling units are affordable.

b. The approval has been conditioned on the recording of deed restriction that prohibits the sale or rental of any affordable dwelling unit used to meet the standard of Paragraph 18.650.100.D.1, except as housing that meets that standard, for the life of the development.

<table>
<thead>
<tr>
<th>Affordable Dwelling Units Based on Maximum Density</th>
<th>Density Bonus</th>
</tr>
</thead>
<tbody>
<tr>
<td>5%</td>
<td>5%</td>
</tr>
<tr>
<td>10%</td>
<td>10%</td>
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<td>20%</td>
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<td>40%</td>
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<tr>
<td>50%</td>
<td>50%</td>
</tr>
</tbody>
</table>

Chapter 18.660
TIGARD TRIANGLE PLAN DISTRICT

18.660.040 Review Process

C. Land use review. Whether required by this title or initiated by the applicant, land use review precedes development review. Land use review is the process whereby the applicant submits any required or applicant-initiated land use applications to the city for review against all applicable approval criteria and standards. The provisions of Chapter 18.770, Planned Developments, do not apply to properties in the TMU zone.

4. Adjustment application. An adjustment application is processed through a Type II procedure as provided in Section 18.710.060.

   a. An adjustment application may contain multiple adjustment requests. An adjustment may be requested for any standard in this chapter unless specifically prohibited by this chapter. An adjustment may not be requested to change or eliminate a required review process. The provisions of Chapter 18.715, Adjustments, do not apply to properties in the TMU zone. An adjustment request for a standard outside of this chapter is subject to the provision of Chapter 18.715, Adjustments.

18.660.050 Pre-Existing Development and Approvals

D. Sites with pre-existing development.

4. Pre-existing buildings that do not meet the site or building design standards in Sections 18.660.070 and 18.660.080 may continue and be modified subject to the standards in Table 18.660.2. Applicable standards only apply to the proposed modification and not to the non-modified portion of the existing building. Modifications that expand a building may be vertical (e.g. second story addition), horizontal (e.g. first-story ground floor expansion), or both (e.g. 2-story addition).
18.660.080 Building Design Standards

B. Building height. The maximum allowed building height is 6 stories, except for properties shown on Map 18.660.A that have a maximum allowed building height of 4 stories. Basements, as defined in Chapter 18.30, Definitions, are not considered stories for purposes of meeting this standard. The height standard for each type of story is provided in Table 18.660.7. Vertical building projections not used for human habitation such as chimneys, flag poles, and elevator shaft housings are exempt from the building height standards of this chapter, except for wireless communication facilities, which are subject to the standards in Chapter 18.450, Wireless Communication Facilities.

<table>
<thead>
<tr>
<th>Type of Story</th>
<th>Height</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ground/First story</td>
<td>12 feet (min.) and 25 feet (max.)</td>
</tr>
<tr>
<td>Middle stories</td>
<td>14 feet (max.)</td>
</tr>
<tr>
<td>Top story</td>
<td>18 feet (max.)</td>
</tr>
</tbody>
</table>

E. Building facade windows. Building facade windows are required as follows:

<table>
<thead>
<tr>
<th>Type of Story and Use</th>
<th>Minimum Window Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ground/First Story: Mixed-Use and Nonresidential</td>
<td>50% of facade</td>
</tr>
<tr>
<td>Upper Stories: Mixed-Use and Nonresidential</td>
<td>30% of facade</td>
</tr>
<tr>
<td>Ground/First Story: Residential Only</td>
<td>30% of facade</td>
</tr>
<tr>
<td>Upper Stories: Residential Only (Does not apply to stories with sloped roofs or dormers)</td>
<td>15% of facade</td>
</tr>
</tbody>
</table>

Chapter 18.670
WASHINGTON SQUARE REGIONAL CENTER PLAN DISTRICT

18.670.020 Applicability

B. Conflicting standards. The following standards apply to all nonresidential and mixed-use development located within the Washington Square Regional Center Plan District within the MUC, MUE, and MUR zones. The standards and requirement in this chapter govern in the event of a conflict.

18.670.050 Pre-Existing Uses and Developments

Pre-existing dwelling units in mixed-use zones are allowed. Conversion of pre-existing dwelling units to other uses is subject to the requirements of this chapter. Notwithstanding the provisions of Section 18.50.040, pre-existing land uses and associated development that were lawfully in existence at the effective date of the Washington Square Regional Center Plan District are treated as lawful or approved uses and developments.

18.670.070 Site Design Standards

B. Building placement on arterials and collectors.
1. Purpose. Architecture helps define the character and quality of a street and can make a strong statement about the overall community and city at large. The placement and design of buildings provides the framework for the streetscape and defines the edges of the public right-of-way. Architecture and first-story ground-floor uses can activate the street, either by its design presence or by those who come and go from it. At intersections, investing in building frontages can create gateways and special places that add to the character of the area.

18.670.080 Building Design Standards

B. First-story Ground floor windows.
   1. Purpose. Blank walls along the street frontage tend to be neglected and are not pedestrian friendly. Windows help keep “eyes on the street” that promote safety and security and can help create a lively street frontage by displaying activities and products within the building. Lighting at night from first-story ground floor windows also adds to the presence of activity and the sense that someone is home.

   2. Standard. All street-facing facades within the required building setback (0 to 10 feet) along public streets must include windows, doors, or display areas on a minimum of 50 percent of the first-story facade area, ground floor wall area with windows, display areas, or doorway openings. The first-story facade ground floor wall area is measured from 3 feet above grade to 9 feet above grade the entire length of the street-facing facade elevation. The ground floor window requirement must be met within the ground floor wall area and for glass doorway openings to ground level. Up to 50 percent of the first-story ground floor window requirement may be met on an adjoining facade elevation provided the entire requirement is located at a building corner.

Chapter 18.710 LAND USE REVIEW PROCEDURES

18.710.030 General Provisions

B. Neighborhood meetings. A prospective applicant must hold a neighborhood meeting prior to filing the following applications: comprehensive plan map amendment (quasi-judicial), conditional use, major modifications, planned development review, sensitive lands review (Type II and III), site development review (Type II), subdivision, and zoning map amendment (quasi-judicial).

18.710.120 Special Procedures

C. Affordable housing developments. Applications for affordable housing developments qualify for a reduced review time of 100 days from the date the application is deemed complete, provided the following are met:

   1. The application is for apartment or rowhouse development containing five or more dwelling residential units;

   2. At least 50 percent of the dwelling residential units included in the development will be sold or rented as affordable to households with incomes equal to or less than 60 percent of the median family income for Washington County, or for the state, whichever is greater; and

   3. The development is conditioned on the recording of a covenant appurtenant, prior to the issuance of a certificate of occupancy, that prohibits the sale or rental of any affordable dwelling residential units.
unit used to meet the standard of Paragraph 18.710.120.C.2, except as housing that meets that standard, for a period of 60 years from the date of the certificate of occupancy.

Chapter 18.715
ADJUSTMENTS

18.715.040 Approval Process

An adjustment application is processed through a Type II procedure as provided in Section 18.710.060. (Ord. 18-28 §1)

18.715.050 Approval Criteria

The approval authority will approve or approve with conditions an adjustment application when all of the criteria in either Subsection 18.715.050.A or B are met.

A. Criteria for demonstrating substantial compliance.

1. The proposed adjustment results in development that is generally consistent with the purpose of the development standard to be adjusted; and
   a. Has only minor impacts on surrounding properties or public facilities; or
   b. Addresses a site constraint or unusual situation; or
   c. Utilizes innovative design or results in sustainable development.

2. If more than one adjustment is proposed, the cumulative effect of the adjustments results in development that is generally consistent with the existing development pattern of the surrounding area and the overall purpose of the base zone;

3. The proposed adjustment utilizes innovative design, results in sustainable development, or addresses a site constraint or unusual situation;

4. The proposed adjustment does not have a greater impact on city-designated sensitive lands than would otherwise occur if the adjustment was not approved; and

5. If the proposed adjustment addresses a site constraint or unusual situation, utilizes innovative design, or results in sustainable development, any impacts from the proposed adjustment are mitigated to the extent practicable; and

4. If more than one adjustment is proposed, the cumulative effect of the adjustments results in development that is generally consistent with the existing development pattern of the surrounding area and the overall purpose of the base zone.

5. Any impacts from the proposed adjustment are mitigated to the extent practicable.

Chapter 18.720
ANNEXATIONS

18.720.020 Approval Process
A. Quasi-judicial annexation applications are processed through a Type III-Modified procedure, as provided in Section 18.710.080. Quasi-judicial annexations are decided by the City Council with a recommendation by Planning Commission.

B. Legislative annexation applications are processed through the Legislative procedure, as provided in Section 18.710.110.

Chapter 18.730
DIRECTOR DETERMINATIONS

18.730.040 Approval Process

Applications for a Director determination are processed through a Type I procedure, as provided in Section 18.710.050.

Chapter 18.740
CONDITIONAL USES

18.740.050 Approval Criteria

G. Adequate public facilities are available to serve the proposed development or use at the time of occupancy.

Chapter 18.760
HOME OCCUPATIONS

18.760.020 Applicability

B. Exemptions. The following activities and uses are exempt from the provisions of this chapter:

3. Home Family day care uses;

5. Legal nonconforming home occupations as provided in Section 18.760.090.

18.760.030 Approval Process

A. Type I home occupations. A Type I home occupation application is processed through a Type I procedure, as provided in Section 18.710.050.

B. Type II home occupation permit. A Type II home occupation application is processed through a Type II procedure, as provided in Section 18.710.060

18.760.050 General Provisions

All home occupations except legal nonconforming home occupations must comply with all of the following in addition to the approval standards for Type I and Type II home occupations provided in Section 18.760.060.

D. The home occupation must be operated entirely within the dwelling unit or a conforming accessory structure. The maximum square footage used for the home occupation and associated storage of materials and products is 25 percent of the combined residence and accessory structure floor area or

Omnibus Amendments  Page 33 of 38
528 square feet, whichever is smaller. All indoor storage of materials or products must meet the provisions of the building, fire, health, and housing codes.

F. A dwelling unit may have more than one home occupation, provided that the combined floor area used for the home occupations does not exceed the square footage limitation imposed in Subsection Paragraph 18.760.040.DA. Each home occupation must apply for a separate home occupation permit, if required by this chapter.

Chapter 18.770
PLANNED DEVELOPMENTS

18.770.070 Conditions of Approval

The approval authority may impose conditions of approval that are suitable and necessary to ensure that the consolidated or concept plan proposal is consistent with the purpose of this chapter as embodied by the approval criteria listed in Subsections 18.770.060.A and B. Conditions may include but are not limited to the following:

H. Requiring pedestrian-oriented design features such as building awnings, first-story ground floor windows and entries, or street-facing facades;

Chapter 18.790
TEXT AND MAP AMENDMENTS

18.790.020 Legislative Amendments

A. Approval process. A Legislative amendments application is processed through a Legislative procedure, as provided in Section 18.710.110.

B. Approval considerations. A recommendation or a decision for a legislative amendment application may be based on consideration of the applicable legal requirements. They may, but do not necessarily include: Oregon Revised Statutes, Oregon Administrative Rules, one or more Statewide Planning Goals, Metro’s Urban Growth Management Functional Plan and any other regional plans. (Ord. 18-28 §1; Ord. 18-23 §2; Ord. 17-22 §2)

18.790.030 Quasi-Judicial Amendments

A. Approval process.

1. A Quasi-judicial zoning map amendments application that does not require a comprehensive plan map amendment is processed through a Type III-PC procedure, as provided in Section 18.710.070.

2. A Quasi-judicial comprehensive plan map amendments application is processed through a Type III-Modified procedure, as provided in Section 18.710.080, which is decided by the City Council with a recommendation by Planning Commission.

3. A Quasi-judicial zoning map amendments application that requires a comprehensive map plan amendment is processed through a Type III-Modified procedure, as provided in Section
18.710.080, which is decided by the City Council with a recommendation by Planning Commission.

Chapter 18.810
LOT LINE ADJUSTMENTS AND CONSOLIDATIONS

18.810.020 Approval Process

A. Approval process. Applications for lot line adjustments and lot consolidations application is are processed through a Type I procedure, as provided in Section 18.710.050.

18.810.030 Approval Criteria

A. Approval criteria. The approval authority will approve or approve with conditions an application for a lot line adjustment or lot consolidation when all of the following are met:

1. An additional lot is not created by the lot line adjustment or lot consolidation, and the existing lot or lots are not reduced below the minimum lot size.

2. The reconfigured proposed lots and existing structures comply with all applicable development standards.

3. The reconfigured proposed lots comply with the following:

   a. Each lot intended for residential development must meet the density standard requirements for the housing type proposed.

   d. The depth of all lots does not exceed 2.5 times the average width, with the following exceptions:

      i. The lot is less than 1.5 times the minimum lot size, or

      ii. The lot is for a proposed cottage cluster or courtyard unit development.

   d.e. Each lot intended for quad, rowhouse, or single detached house development is rectilinear in shape with straight side lot lines at right angles to front lot lines, and straight rear lot lines parallel to front lot lines, except where not practicable due to location along a street radius or because of an existing natural feature or lot line shape. Side and rear lot lines that are segmented may not contain cumulative lateral changes in direction that exceed 10 percent of the distance between opposing lot corners, as measured using the process of Subsection 18.40.060.C.

   e.f. Each lot has a minimum of 40 feet of frontage on a public or private right-of-way, except for the following types of lots:

   f.e. All setback requirements are met. The setback requirements for residential and nonresidential development are provided in the applicable development standards chapter in 18.200 Residential Development Standards or 18.300 Nonresidential Development Standards.

   g.h. Lots using the density and dimensional standards for cottage cluster, courtyard unit, quad, and rowhouse development must record a deed restriction that prohibits any type of development other than the type proposed with the lot line adjustment or consolidation application. This...
Chapter 18.820
LAND PARTITIONS

18.820.030 Approval Process

A. Approval process. Applications for land partition application are processed through a Type II procedure, as provided in Section 18.710.060.

18.820.040 Approval Criteria

The approval authority will approve or approve with conditions an application for a land partition when all of the following are met:

C. All proposed improvements meet city and applicable agency standards;

D. All proposed lots comply with the following:

1. Each lots created for residential development must meet the density standard requirements for the housing type proposed.

4. The depth of all lots does not exceed 2.5 times the average width, with the following exceptions:
   a. The lot is less than 1.5 times the minimum lot size, or
   b. The lot is for a proposed cottage cluster or courtyard unit development.

45. Each lot for quad, rowhouse, or single detached house development is rectilinear in shape with straight side lot lines at right angles to front lot lines, and straight rear lot lines parallel to front lot lines, except where not practicable due to location along a street radius or because of an existing natural feature or lot lines. Side and rear lot lines that are segmented may not contain cumulative lateral changes in direction that exceed 10 percent of the distance between opposing lot corners, as measured using the process of Subsection 18.40.060.C.

56. Each lot has a minimum of 40 feet of frontage on a public or private right-of-way, except for the following types of lots:

67. All setback requirements are met. The setback requirements for residential and nonresidential development are provided in the applicable development standards chapter in 18.200 Residential Development Standards or 18.300 Nonresidential Development Standards.

78. Lots created using the density and dimensional standards for cottage cluster, courtyard unit, quad, and rowhouse development must record a deed restriction that prohibits any type of development other than the type proposed with the partition application. This deed restriction cannot be removed except through another land division process.

Chapter 18.830
SUBDIVISIONS

18.830.020 General Provisions
A. **Approval through two-step process.** An application for a subdivision **application** is processed through a two-step process: the preliminary plat and the final plat.

18.830.030 **Approval Process**

A. **Approval process.** Applications for a preliminary plat **application** for subdivision are processed through a Type II procedure, as provided in Section 18.710.060. An application for subdivision may also be reviewed concurrently with an application for a planned development, as provided in Chapter 18.770, Planned Developments.

18.830.040 **Approval Criteria—Preliminary Plat**

A. **Approval criteria.** The approval authority will approve or approve with conditions an application for a preliminary plat when all of the following are met:

1. The proposed preliminary plat complies with the applicable zoning ordinance and other applicable regulations;

2. **All** the proposed lots must comply with the following:
   
   b. The depth of all lots may not exceed 2.5 times the average width, unless the lot is less than 1.5 times the minimum lot size, or if the lot is for a proposed cottage cluster or courtyard unit development.

   be. Each lot **for quad, rowhouse, or single detached house development** is rectilinear in shape with straight side lot lines at right angles to front lot lines, and straight rear lot lines parallel to front lot lines, except where not practicable due to location along a street radius or because of an existing natural feature or lot line shape. Side and rear lot lines that are segmented may not contain cumulative lateral changes in direction that exceed 10 percent of the distance between opposing lot corners.

   cd. Each lot has a minimum of 40 feet of frontage on a public or private right-of-way, except for the following types of lots:

   de. Lots created using the density and dimensional standards for cottage cluster, courtyard unit, quad, and rowhouse development must record a deed restriction that prohibits any type of development other than the type proposed with the subdivision application. This deed restriction cannot be removed except through another land division process.

18.830.050 **Zero Lot Line Development**

B. **Approval criteria.** The approval authority will approve or approve with conditions an application for a zero lot line development when all of the following are met:

1. There must be a 10-foot separation between each residential dwelling **unit** or garage;
E. **Surfacing.** Driveways and drive aisles must be paved with a dust-free, hard-surfaced material, or utilize a turf grid or open joint pavers.

F. Curb cuts. Curb cuts must be in compliance with Subsection 18.910.030.O.

G. **Pedestrian access.** Paths for pedestrian access and circulation are required to, through, and sometimes between development sites. Path standards are provided in 18.200 Residential Development Standards, 18.300 Nonresidential Development Standards, and Chapter 18.410, Off-Street Parking and Loading. Additional standards may also apply if the site is located in a plan district.

H. **Inadequate or hazardous access.**

I. **Access management.**

J. Minimum access requirements for residential uses.

1. Vehicle access, egress, and circulation for nonresidential uses must comply with the standards provided in Table 18.920.2.

<table>
<thead>
<tr>
<th>Required Parking Spaces</th>
<th>Minimum Number of Driveways Required</th>
<th>Minimum Access Width</th>
<th>Minimum Pavement</th>
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</thead>
<tbody>
<tr>
<td>10–99</td>
<td>1</td>
<td>30 ft</td>
<td>24 ft curbs required</td>
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<td>100+</td>
<td>2</td>
<td>30 ft</td>
<td>24 ft curbs required</td>
</tr>
<tr>
<td></td>
<td>1</td>
<td>50 ft</td>
<td>40 ft curbs required</td>
</tr>
</tbody>
</table>

2. Vehicular access to apartment structures must be within 50 feet of the first-story ground floor entrance or the first-story ground floor landing of a stairway, ramp, or elevator leading to the dwelling units.

K. Minimum access requirements for nonresidential uses.

2. Vehicular access must be provided to nonresidential commercial or industrial uses, and be located within 50 feet of the primary first-story ground floor entrances;

L. **One-way vehicular access points.** Where a proposed parking facility indicates only one-way traffic flow on the site, it must be accommodated by a specific driveway serving the facility; the entrance drive must be situated closest to oncoming traffic and the exit drive must be situated farthest from oncoming traffic.

M. **Director’s authority to restrict access.** The Director has the authority to restrict access when the need to do so is dictated by one or more of the following conditions:
CITY OF TIGARD
PLANNING COMMISSION
Minutes, December 2, 2019
Location: Tigard Civic Center
Town Hall, 13125 SW Hall Blvd.

CALL TO ORDER

President Feeney called the meeting to order at 7:00 p.m.

ROLL CALL

Present: President Feeney
Vice President Hu
Commissioner Brook
Commissioner Jackson
Alt. Commissioner Quinones
Commissioner Roberts
Alt. Commissioner Sarman
Commissioner Schmidt
Commissioner Tiruvallur
Commissioner Watson
Commissioner Whitehurst

Absent: None.

Staff Present: Tom McGuire, Assistant Community Development Director;
Doreen Laughlin, Executive Assistant; Associate Planner, Agnes Lindor;
Dave Roth, Sr. Transportation Planner

COMMUNICATIONS – None.

CONSIDER MINUTES

President Feeney asked if there were any additions, deletions, or corrections to the October 21 minutes; there being none, President Feeney declared the minutes approved as submitted.

OPEN LEGISLATIVE PUBLIC HEARING

DEVELOPMENT CODE AMENDMENT (DCA) 2019-00002
2019 OMNIBUS TEXT AMENDMENTS

PROPOSAL: The City of Tigard proposes legislative amendments to the Tigard Community Development Code (TCDC). Amendments to the development code will streamline the residential use category, modify lot standards for different housing types, and clean up minor inconsistencies. LOCATION: Citywide
STAFF REPORT

Associate Planner Agnes Lindor introduced herself and went over the staff report using a PowerPoint (Exhibit A).

She noted that the focus of the amendments is general housekeeping and terminology as well as updating ineffective regulations. Some of the housekeeping items include correcting some references (some code changes impacted the references and the code). The other portion is to update phrasing – we are replacing “dwelling” or “unit” with “dwelling unit” as well as “floor” and “level” with “story.” We are also providing consistent phrasing such as “An application for XX shall be processed through a Type XX procedure, as provided in Section XX.” She noted that two of the commissioners had made suggestions that staff took into consideration.

Regarding Policy Changes:

Removing and Replacing Ineffective Regulations

➢ Updating regulations for housing to comply with State
➢ Update the definition of “Story” to be consistent with the Oregon Residential Structural Code.
➢ Consolidate the Household Living and Group Living categories into one category: Residential Use.
➢ Remove the lot width/depth standard.
➢ Modify the rectilinear standard to only apply to quads, rowhouses, and single detached houses.

Ms. Lindor thanked Commissioners Hu and Jackson for their comments and noted that staff will incorporate the suggested changes into the City Council draft. There were a couple of suggestions that staff addressed as well – one on page 3 18.60.040A2: there was a suggestion to add the phrase “a dwelling unit” in front of “an institution or facility.” Staff is proposing to not add that phrase and she went on to explain. What this definition was trying to get at is to account for those types of facilities, like assisted living, that don’t necessarily have individual dwelling units and the components of the dwelling units are shared among the residents, so they have a central kitchen, or a central dining room. We still want to consider those residential uses even though they don’t necessarily meet the dwelling unit definition. The other suggestion is regarding page 15 18.270010D: staff suggests leaving the last phrase “single detached houses” as is, to be consistent with chapter 18.290 which is called “single detached houses” – so this is an effort to be consistent with that.

She noted there were two requests from the public for a copy of the code amendments – which were provided. There were no other requests or comments from the public on this.
The public hearing is scheduled for January 7 for City Council.

**STAFF RECOMMENDATION**

Staff recommends that the Planning Commission find in favor of the proposed development code text amendments *(Exhibit B)* with any alterations as determined through the public hearing process and make a final recommendation to the Tigard City Council.

**QUESTIONS**

Commissioner Jackson: On page 20 the category of significant tree groves was added under sensitive lands. To my recollection we've been honoring those – so I'm curious as to what extent that will change some of our past decisions, for instance. This came up because typically when there’s a significant tree grove, there’s usually another sensitive lands layer on top of it – like a significant habitat; but there are tree groves in the city that don’t have the significant habitat overlay on them. In those situations, not even a tree removal permit would be required for those trees – so we wanted to at least provide that extra protection for those areas that weren’t covered by other sensitive lands.

For the missing middle housing types – as I recall Row Houses are still not permitted and non-conforming in most of the residential zones. Are those not covered in the same way under HB2001 as the others? And I have page 6 and page 15 in my notes – so hopefully those are accurate. I really don’t know why Row Houses aren’t included in the missing middle. I know that we had changed the courtyard units and quads to be allowed in the R1 and R2 zones, but it looks like Row Houses are allowed in R7 and up, and not R40… I will check on that – whether Row Houses are considered missing middle housing – before the council meeting.

Commissioner Hu: Thanks for clarification on page 3 explaining why the change I proposed won’t be incorporated. After your explanation, I agree with you. I didn’t realize that a shared kitchen would not be considered a dwelling unit – so I agree the change shouldn’t be incorporated.

On page 30 for the Washington Square Plan, I think the phrase “non-residential” and “mixed-use” has been inserted in there. By adding those words, you are narrowing the scope of the chapter. *Is there a reason for it?* What’s not shown on here is – you only see Section B. If I were to include Section A – Section A says that this chapter only applies to non-residential and mixed-use development; so this would make it consistent.

**TESTIMONY IN FAVOR** – None.

**TESTIMONY IN OPPOSITION** – None.

**PUBLIC HEARING CLOSED**

**DELIBERATION**
Commissioners expressed support for the proposed amendments.

MOTION

Commissioner Schmidt made the following motion “I move that the Planning Commission forward a recommendation of approval to the City Council of application DCA2019-00002 and adoption of the findings and conditions of approval contained in the staff report, if appropriate, and based on the testimony received.” The motion was seconded by Commissioner Roberts.

VOTE

All in favor, none opposed, none abstained.

RESULT

Motion to recommend approval to Council carries and passes unanimously (9-0).

BRIEFING

TRANSPORTATION SYSTEM PLAN (TSP) UPDATE

Sr. Transportation Planner Dave Roth introduced himself and went over a PowerPoint (Exhibit C). He explained that the TSP is essentially a set of policies, programs and projects that address the multi-modal transportation needs within Tigard’s Urban Growth Boundary over the planning horizon (2035). It also serves as the transportation element of Tigard’s Comprehensive Plan. He noted that if you look at the Comprehensive Plan and the TSP – they essentially mirror each other in policies, goals, objectives and actions.

The current plan was adopted in 2010 after a year and a half planning process. That process utilized a Transportation Growth Management Grant funding source. For the update that we’re moving forward on now, we’re using local funding 100% for the project – and there are some benefits to that. Having control over the whole process is nice this round. The TSP satisfies Oregon Statewide Planning Goal 12: Transportation. We need to create a transportation system plan that considers all relevant modes of transit… public transportation, walking, cycling, personal cars, freight… everything that’s using our transportation system.

At a high level, the Transportation System Plan has goals around coordinating land use and transportation; efficiency of mobility - getting people around the city where they need to go; creating a multi-modal system that works for all types of users; always focusing on safety. Inter-agency coordination is very important to us because we have ODOT roads running through the city and we also coordinate very closely with Washington County and our neighboring cities as well. There’s a section on Transportation Funding – funding the projects and programs that are identified in the System Plan.
He explained why we are updating our TSP now. It’s timely because we’ve adopted some new policies that impact our transportation system. For example, we have our Strategic Plan vision which calls for Tigard to be the most walkable community in the Pacific Northwest. And just last summer we adopted a Complete Streets Policy that specifically calls out the City needing to plan, build, maintain and operate a transportation system that works for all users of all ages. Additionally, Tigard is adding people - and those people need to get around - and that impacts our transportation system. So, it’s a good time to level set, figure out what our current baseline is, and how growth is going to be impacting the network – and what we need to do in terms of programs and projects to address the need. There is a lot of development activity on the western edge of town – River View Terrace and others on the west side. We also have activity picking up in the Tigard Triangle and downtown, and along corridors such as Hwy99W. Things are changing – it’s time to go back and re-evaluate the programs, projects and policies.

Finally, he noted that we also must be consistent with Metro’s regional Transportation Plan. They just adopted a new plan in December 2018. We need to ensure that our plan is consistent with their regional plan. We will have a very robust public engagement component to this project. We will hold a conversation with the community on transportation issues and priorities so we can evaluate and re-set/adjust our goals and policies going forward.

QUESTIONS/COMMMENTS

Dave asked the question “What transportation-related issues are of concern or interest for our community?”

Among others, there were several general transportation questions and comments from the commissioners ranging from congestion problems; requests for increased parking for WES; transit needing to be efficient and timely; photo radar cameras with count down timers; to the idea of whether it’s possible to have dedicated bus priority lanes.

OTHER BUSINESS

Assistant Community Development Director Tom McGuire explained the big projects that will be coming up in the new year. He informed the commissioners that the new Sr. Planner position has been filled by a current employee. Associate Planner Schuyler Warren began his new role as Senior Planner on December 2nd.

President Feeney adjourned the meeting at 8:30 p.m.

______________________________
Doreen Laughlin, Planning Commission Secretary

ATTEST: President Brian Feeney
2019 Omnibus Code Amendments
DCA2019-00002
Public Hearing
Purpose and Recommendation:

City Council to adopt the 2019 Omnibus Code Amendment Package as recommended by Planning Commission.
Policy Changes

Removing and Replacing Ineffective Regulations

- Updating regulations for housing to comply with State
- Update the definition of “Story” to be consistent with the Oregon Residential Structural Code.
- Consolidate the Household Living and Group Living categories into one category: Residential Use.
- Remove the lot width/depth standard.
- Modify the rectilinear standard to only apply to quads, rowhouses, and single detached houses.
Focus of Amendments

General Housekeeping and Terminology

- Correct references
- Consistent phrasing
  - Replace “dwelling” or “unit” with “dwelling unit”
  - Replace references to “floor” or “level” with “story”;
  - Consistent phrasing changes such as, “An application for XX shall be processed through a Type XX procedure, as provided in Section XX”
Recommendation:

City Council to adopt the 2019 Omnibus Code Amendment Package as recommended by Planning Commission.
Questions/Discussion
Business Meeting One

Meeting Date: 01/07/2020
Length (in minutes): 20 Minutes
Agenda Title: Consider Adoption of System Development Charge Deferral
Prepared For: Mark VanDomelen, Community Development
Submitted By: Schuyler Warren, Community Development
Item Type: Motion Requested
Ordinance

Meeting Type: Council Business
Meeting - Main

Public Hearing: No
Publication Date:

Information

ISSUE
Shall the Council adopt an ordinance deferring certain local system development charges for residential development?

STAFF RECOMMENDATION / ACTION REQUEST
Staff recommends adoption of the ordinance.

KEY FACTS AND INFORMATION SUMMARY
Over the past several months, the Community Development department has been examining administrative procedures in an effort to find efficiencies and modifications to help lower housing costs. Feedback received from the City's Development Advisory Committee indicated that the deferral of system development charges could be of benefit to developers, particularly smaller developers, as it reduces the costs of financing.

Under current practice, SDCs are charged and paid at the time that building permits are issued. This means that if developers are using construction loans to pay for their SDCs, they pay the carrying costs of those SDCs throughout the process of construction. Construction loans are typically made at higher interest rates than conventionally-secured loans due to the higher level of risk. As a result, the costs of SDCs are higher the earlier they are charged in the construction process.

By collecting SDCs nearer to the time of construction completion, the cost burden to developers and builders of financing these fees can be reduced.

Deferral of SDCs represents a shift in the workflow programmed in the City's permitting
software. The Building Division worked with the city's software consultant to determine a scope of work, cost profile, and timeline for the programming change and was informed in mid-November that the work would be completed by January.

This policy is not expected to result in costs to the City other than the overhead to set up the software and administer the program. The City will still take in the same amount in SDCs, just on a delayed basis. The estimate to modify the permit tracking system to accommodate the deferral of SDCs until occupancy is approximately $1200.

OTHER ALTERNATIVES
If Council takes no action to adopt the ordinance, the City’s SDC collection process will remain in effect and unchanged.

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS
DATES OF PREVIOUS COUNCIL CONSIDERATION
November 5, 2019 - discussion

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<th>Fiscal Impact</th>
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<tr>
<td>Fiscal Information:</td>
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<tr>
<td>Modifying the permit tracking software to accommodate the deferral of SDC's until occupancy would cost approximately $1200.</td>
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<table>
<thead>
<tr>
<th>Attachments</th>
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<td>Ordinance</td>
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CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
ORDINANCE NO. 20-

AN ORDINANCE AMENDING TIGARD MUNICIPAL CODE SECTION 3.24.080 TO ALLOW FOR DEFERRAL OF CERTAIN SYSTEM DEVELOPMENT CHARGES

WHEREAS, Chapter 3.24 of the Tigard Municipal Code (TMC) establishes system development charges (SDCs) for the City; and

WHEREAS, under current code, SDCs are due and payable upon issuance of the building or plumbing permit to which the fees relate, with the exception of water SDCs, which are due and payable upon purchase of a water meter; and

WHEREAS, the City currently allows deferral of transportation or park SDCs to occupancy for commercial and multi-family development, but not for single-family dwelling units; and

WHEREAS, the City’s Development Advisory Committee has recommended that City transportation and park SDCs be deferred for all development in order to lessen the cost burden to developers and builders of SDC financing costs; and

WHEREAS, by reducing costs to builders and developers by shortening the time for which SDCs are financed, the City is aiming to help lower housing costs in Tigard.

NOW, THEREFORE, THE CITY OF TIGARD ORDAINS AS FOLLOWS:

SECTION 1: Tigard Municipal Code 3.24.080 is amended as follows (additional text is underlined and deleted text is shown in strikethrough):

A. SDCs are calculated and are due and payable as follows:

   1. Calculation. SDCs are calculated based on the fees in effect at the time of submittal of the complete building or plumbing permit application to which the fees relate. If a building or plumbing permit is not required and a land use decision is required, SDCs are calculated based on the fees in effect at the time of submittal of the complete land use application to which the fees relate.

   2. Due and Payable. Water SDCs are due and payable upon purchase of a water meter. All other SDCs are due and payable upon issuance of the building or plumbing permit to which the fees relate. If a building or plumbing permit is not required and a land use decision is required, all other SDCs are due and payable upon issuance of the land use decision to which the fees relate.

***

D. Notwithstanding subsection A.2 of this section, the applicant may request apply for a deferral of payment of transportation or park SDCs to occupancy. The administrator may only grant a deferral in cases where the amount due exceeds the amount of a transportation
or park SDC on a single-family dwelling unit. The request must be made in writing to the administrator no later than the time of building permit application or, if no building permit is required, then upon land use application. Any deferred SDC must be paid in full prior to final inspection or the issuance of an occupancy permit. The amount of transportation or park SDC due on deferred obligation will be the amount in effect at the time of issuance of the building permit.

SECTION 2: If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity does not affect the other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. This City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the ordinance be enforced.

SECTION 3: This ordinance shall be effective 30 days after its passage by the council, signature by the mayor, and posting by the city recorder.

PASSED: By _________________ vote of all council members present after being read by number and title only, this ___ day of ________________, 2020.

________________________________________________________________________
Carol A. Krager, City Recorder

APPROVED: By Tigard City Council this ___ day of ________________, 2020.

________________________________________________________________________
Jason B. Snider, Mayor

Approved as to form:

________________________________________________________________________
City Attorney

________________________________________________________________________
Date
ISSUE
Shall Council adopt a resolution to establish a new fee for all residential parking zones?

STAFF RECOMMENDATION / ACTION REQUEST
Staff recommends Council approve the resolution as presented.

KEY FACTS AND INFORMATION SUMMARY
On December 3, 2019, Council adopted Ordinance 19-21, establishing Tigard Municipal Code (TMC) 10.30, related to residential parking zones. This chapter replaced the previous residential parking zone program under TMC 10.28.175. Residential parking zones approved under the previous code continue in place until the zone is repealed or modified. Those include the existing zones on 87th, 88th, 92nd, 93rd, Martha, Millen, Stratford Loop, Stratford Court, Avon Street, Avon Court and Julia Place, all established pursuant to Resolution 91-62.

Resolution 91-62 also established a $10 per year permit fee for processing each request for a permit. While the zones established by Resolution 91-62 will remain in effect, the $10 fee is no longer sufficient to cover the City's costs for processing. The new proposal is for $60 for the first two permits, or $30 each. The cost will be $60 each beyond the first two permits. Two guest passes will be free; additional will have to be purchased at $60 per permit. Violations of TMC 10.30 will be treated consistently with "All Other Parking Violations" on the City's Master Fees and Charges schedule and will have a fine of $53 per violation.

OTHER ALTERNATIVES
Council could choose to not approve the changes or make additional amendments to the program or fees. If program changes are desired, Council is requested to give staff consensus direction for program changes and staff will bring amendments to a future business meeting.

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS
Places associated fees onto the Master Fees and Charges Schedule.

DATES OF PREVIOUS COUNCIL CONSIDERATION

Attachments

Resolution
Exhibit A - Master Fees and Charges
CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
RESOLUTION NO. 20-

A RESOLUTION AMENDING THE MASTER FEES AND CHARGES SCHEDULE TO ESTABLISH A FEE FOR RESIDENTIAL PARKING PERMITS

WHEREAS, on December 3, 2019, the Tigard City Council adopted Ordinance 19-21, which established Tigard Municipal Code (TMC) 10.30, a new residential parking zone program for the City; and

WHEREAS, TMC 10.30 replaced the prior residential parking program in TMC 10.28.175; and

WHEREAS, residential parking zones approved under TMC 10.28.175 continue in effect under TMC 10.30 unless repealed or modified; and

WHEREAS, the original residential parking zones were established by Resolution 91-62; and

WHEREAS, Section 3 of Resolution 91-62 established a $10 per year permit fee for residential parking zones, which is no longer adequate to address the City’s cost in processing these permits; and

WHEREAS, Council now desires to adopt a new processing fee for all residential parking zones.

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

SECTION 1: The Master Fees and Charges for the City of Tigard are amended as shown in the attached schedule (Exhibit A).

SECTION 2: Section 3 of Resolution 91-62 is hereby repealed.

SECTION 3: This resolution is effective immediately upon passage.

PASSED: This ______ day of _____________ 2020.

________________________________________
Mayor - City of Tigard

ATTEST:

________________________________________
City Recorder - City of Tigard

RESOLUTION NO. 20-
Page 1
<table>
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<tr>
<th>Department</th>
<th>Revenue Source</th>
<th>Fee or Charge</th>
<th>Effective Date</th>
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<td><strong>Attorney Time</strong></td>
<td>Current attorney billing rate</td>
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<td><strong>4GB Flash Drives</strong></td>
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<td></td>
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<td><strong>DVD/CD</strong></td>
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<td><strong>Microfiche Sheet Copies</strong></td>
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Page 1
<table>
<thead>
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<th>Fee or Charge</th>
<th>Effective Date</th>
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<td>Downtown Parking Permit</td>
<td>$37 / month</td>
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<td>Construction Parking Permit</td>
<td>$5 / day/ space in 2-hour zone</td>
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<tr>
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<td></td>
<td></td>
<td>$3 / day/ space in 4-hour zone</td>
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<tr>
<td></td>
<td></td>
<td>Residential Parking Permit</td>
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</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>$0 Guest permit (two issued with first two permits)</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>$60 Annually for each additional permit</td>
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<td></td>
<td>Overtime Parking Violation</td>
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</tr>
<tr>
<td></td>
<td></td>
<td>Disabled Parking Violation***</td>
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<tr>
<td></td>
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<td>All Other Parking Violations</td>
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</tr>
</tbody>
</table>

* Adjusted annually in conjunction with the West Consumer Price Index (CPI) - if index is insufficient to increase fee in whole dollar, increase will compound into the next year.  
** All violations have a minimum of 50% of that listed.  
*** Disabled Parking Violation fine is bound to the State of Oregon statutory limit.
ISSUE
Shall the Local Contract Review Board adopt revisions to the City's Public Contracting Rules?

STAFF RECOMMENDATION / ACTION REQUEST
Staff recommends the Local Contract Review Board (Board) approve the resolution revising the Public Contracting Rules so the City and Tigard City Center Development Agency may be in compliance with Oregon Revised Statutes Chapters 279A, 279B, and 279C.

KEY FACTS AND INFORMATION SUMMARY
The City of Tigard has previously adopted and used rules applicable to public contracting, including rules covering procedure and governing exemptions. The current Public Contracting Rules (PCRs) were adopted in April 2013 and while these rules have kept the City largely in compliance with applicable state statutes it is time to incorporate legislative updates. Most important are changes to the procedures for procuring architects, engineers, land surveyors, photogrammetric mapping and transportation planners through the Qualification Based Selection (QBS) process. Staff is also recommending a few minor revisions that, while not required by law, statute, or rule, will help with streamlining to better serve the City's day-to-day activities. An impact matrix of the proposed revisions is attached.

OTHER ALTERNATIVES
Council could choose not to approve all or some of the revisions and leave the current PCRs in place and the City will follow the Attorney General's Model Public Contracting Rules where the PCR's do not address an issue. The Council could choose not to approve the revisions, dissolve the current PCRs and direct the City to follow the Attorney General's Model Public Contracting Rules.

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS
N/A

DATES OF PREVIOUS COUNCIL CONSIDERATION
The Local Contract Review Board approved the current Public Contracting Rules on April 2, 2013.

Fiscal Impact

Cost:
Budgeted (yes or no):
Where budgeted?:
Additional Fiscal Notes:
There is no fiscal impact for this item.

Attachments
Resolution
Exhibit A Public Contracting Rules 2020
Public Contracting Rules Impact Matrix
CITY OF TIGARD, OREGON  
LOCAL CONTRACT REVIEW BOARD  
RESOLUTION NO. 20-

A RESOLUTION AMENDING THE CITY’S PUBLIC CONTRACTING RULES

WHEREAS, the City of Tigard has previously adopted and used rules applicable to public contracting, including rules covering procedure and exemptions; and

WHEREAS, the proposed amendments incorporate recent legislative changes in statute into Tigard’s Public Contracting Rules (PCRs) in order to remain in compliance with Oregon Revised Statutes Chapters 279A; 279B and 279C collectively known as the “Public Contracting Code” some of which take effect January 1, 2020; and

WHEREAS, the City Council determines that the PCRs, as revised, better suit the needs of the City than the proposed Attorney General Model Rules (Model Rules); and

WHEREAS, the City of Tigard’s Public Contracting Rules will be revised to meet the requirements established under the revised Public Contracting Code.

NOW, THEREFORE, BE IT RESOLVED by the Tigard Local Contract Review Board that:

SECTION 1: The City Council, as the Local Contract Review Board hereby adopts rules attached as Exhibit A pursuant to the authority granted the Board by Tigard Municipal Code Section 2.46. These rules apply to all contracting, purchasing and disposing of surplus personal property by the City of Tigard.

SECTION 2: The Model Rules adopted or to be adopted by the Attorney general do not apply to contracting for the City of Tigard.

SECTION 3: The City Council, acting as the Local Contract Review Board, hereby establishes the revised Public Contracting Rules.

SECTION 4: This resolution is effective immediately upon passage.

PASSED: This _______ day of _______________ 2020.

__________________________________________
Local Contract Review Board Chair - City of Tigard

ATTEST:

__________________________________________
City Recorder - City of Tigard

RESOLUTION NO. 20 -
Page 1
The following Public Contracting Rules (PCRs) have been adopted by the City Council acting as the Local Contract Review Board pursuant to the authority granted to the Board by Tigard Municipal Code Section 2.46. The rules apply to all contracting, purchasing, and disposing of personal property by the City of Tigard but do not apply to acquisition, sale or other transfer of real property.

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90.020 Recycled Materials and Products Purchasing Guidelines
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PCR 10.000 - COMPETITIVE PROCESS REQUIRED, EXEMPTIONS

10.010 COMPETITIVE PROCESS, EXEMPTIONS AND DEFINITIONS

A. All public improvement contracts shall be based upon competitive bidding unless meeting an exception listed here within. All other public contracts shall be based upon competitive bidding or competitive proposals (collectively "formal competitive process"), except the following:

1. Contracts made with other public agencies are not subject to these rules, except to the extent that the rules explicitly allow certain transactions with other public agencies.

2. Contracts which are exclusively for personal services as determined by application of Public Contract Rule (PCR) 70.010. Such contracts may include incidental materials such as written reports, architectural or engineering renderings, and similar supplemental materials.

3. Grants and contracts evidencing acceptance of donations by the City.

4. Contracts for professional or expert witnesses or contractors relating to existing or potential litigation or other legal matters.

5. Transfers of real property or any interest in real property.


7. Contracts relating to bonds, certificates of participation, and similar debt repayment obligations, or to program loans, or to public investments.

8. Employee benefit plans.

9. Contracts specifically exempt under the following rules:

   10.015 Exemption of Contracts under Certain Dollar Amounts
   10.020 Contracts for Price Regulated Items
   10.025 Library Periodicals
   10.030 Advertising Contracts
   10.035 Equipment Maintenance Repair and Overhaul
   10.040 Purchases under Established Price Agreements
   10.045 Gasoline, Diesel Fuel, Heating Oil, Lubricants, and Asphalt
   10.050 Investment Contracts
   10.055 Insurance Contracts
   10.060 Employee Benefit Insurance
   10.065 Office Copier Purchases
   10.070 Single Seller of Product
   10.075 Contract Amendments (Including Change Orders and Extra Work)
   10.080 Affirmative Action Contracts
   10.085 Purchases Off Contracts by Other Public Agencies
   10.090 Oil or Hazardous Material Removal
   10.095 Contracts with Qualified Non-profit Agencies
B. As used in this Section:

1. "Board" means the City of Tigard Local Contract Review Board.

2. "City" or "The City" means Tigard, Oregon.

3. Competitive bidding" means a competitive sealed bid procedure for awarding contracts following the rules set forth in PCR 30.000.

4. "Competitive quotes" means the solicitation and receipt of offers by the City from competing vendors, The solicitation may be by advertisement or by the City initiating arequest to vendors to make an offer. The solicitation and the offer may be written or oral.

5. "Invitation to Bid" means the solicitation of competitive bids in which price among those bidders meeting specifications will be the predominant award criterion.

6. "LCRB" means the City of Tigard Local Contract Review Board.

7. "Personal property" means everything subject to ownership which is not real property and has exchangeable value.

8. "Price Agreement" means an agreement in which the vendor agrees to supply all goods or services of a particular type ordered by the City within a specified time period at a specified price and on terms specified in the price agreement.

9. "Public agency" means any federal, state or local government, or any department of any federal, state or local government, including any local school or education City or any specialdistrict.

10. "Request for Proposal" means the formal solicitation of competitive written proposals to be used as a basis for making an acquisition or entering into contract when price will not be the predominant award criterion, following the rules set forth in Section 30.010 to 30.205.

11. "Service" means work performed to meet a demand, especially work that is not connected with manufacturing a product.

12. "Service contract" means a contract that calls primarily for a contractor's time and effort rather than an end product.

13. "Telecommunications Services" means the lease or rental of the use of voice and data transmission facilities or services, or of central office services, but does not include acquisition of switch or station equipment or acquisition or installation of wire and cable.
C. When a contract is exempt from a formal competitive process, the City shall use reasonable efforts to ensure it is obtaining goods or services on the best terms (price, quality and other terms). Those efforts shall normally include seeking out potential contractors and determining price and availability by use of informal quotes or other similar methods. The City shall not knowingly purchase goods or services if it knows that comparable goods or services are available at lower cost on otherwise similar terms.

10.015 EXEMPTION OF CONTRACTS UNDER CERTAIN DOLLAR AMOUNTS

A. Public Contracts Other Than Public Improvements Contracts

The City may, in its discretion, enter into public contracts other than public improvements contracts without a formal competitive process if the value of the contract does not exceed $150,000. If this exemption is applied, the City must use either the small contract or intermediate contract procedures set forth in Subsections C and D of this section. This exemption does not authorize City employees or officials to enter into an agreement in excess of their dollar authority to bind the City.

B. Public Improvements Contracts

The City may, in its discretion, enter into public improvement contracts without competitive bidding if the value of the contract is between $5,000 and does not exceed $100,000. If this exemption is applied, the City must use either the small contract or intermediate Procurement contract procedures set forth in Subsection C and D of this section. This exemption does not authorize City employees or officials to enter into an agreement in excess of their dollar authority to bind the City.

C. Small Procurement Contract Procedures

When the amount of the contract does not exceed $10,000, the City may award the contract from any source known to the City to provide goods or services of acceptable quality at competitive prices. The City may not knowingly use a more expensive source if the goods or services of equivalent quality are readily available from alternate sources on the same terms at lower prices.

D. Intermediate Procurement Contract Procedures

When the amount of the contract does not exceed $150,000, but is more than $10,000, the City may award the contract after seeking at least three competitive quotes or proposals. The City shall keep a written record of the source and amount of the quotes or proposals received. If three suppliers are not available, a lesser number of actual quotes or proposals will suffice provided that a written record is made of the good faith effort to obtain the quotes or proposals.

E. No Division or Fragmentation of Contracts

State law prohibits a procurement of goods and/or services from being artificially divided or fragmented so as to constitute a small procurement under these Rules. Any attempt to divide or fragment the small or intermediate contract procedures unless an exception or exemption is granted under these Rules.
4. Amendment of Small and Intermediate Contracts

A contract awarded under the small or intermediate contract procedures may not be amendment if the amendment would result in a total contract price that exceeds the maximum amount for the procedure used to award the original contract.

10.020 CONTRACTS FOR PRICE REGULATED ITEMS

The City may, without formal competitive process, contract for the purchase of the goods or services where the rate or price for the goods or services being purchased is established by federal, state, or local regulatory authority.

10.025 LIBRARY PERIODICALS

Purchases for the library of subscriptions for periodicals including journals, magazines, and similar publications may be made without formal competitive process. However, this provision does not authorize the use of a higher priced source if a lower price source of acceptable quality is known to be available.

10.030 ADVERTISING CONTRACTS

The City may purchase advertising without formal competitive process.

10.035 EQUIPMENT MAINTENANCE, REPAIR, AND OVERHAUL

Contracts for equipment maintenance, repair, or overhaul may be let without a formal competitive process, subject to the following conditions:

A. The services and/or parts required are unknown and the cost cannot be determined without extensive preliminary dismantling or testing; or

B. The services and/or parts required are for sophisticated equipment for which specially trained personnel are required and such personnel are available from only one source.

The City should, where possible, use a price agreement rather than relying on this exception.

10.040 PURCHASES UNDER ESTABLISHED PRICE AGREEMENTS

When the price of goods and services has been established by a price agreement entered into by a competitive process, the City may purchase goods and services from the supplier without a subsequent competitive process for the duration of the price agreement.

10.045 GASOLINE, DIESEL FUEL, HEATING OIL, LUBRICANTS AND ASPHALT

The City may, without a competitive process, purchase gasoline, heating oil, lubricants, and asphalt subject to the following:
A. Prior to selection of the contractor, the City gets quotes from at least three vendors in the area;

B. The City makes its purchase from the least expensive source of those providing quotes; and

C. The City retains written justification for the purchase made.

10.050 INVESTMENT CONTRACTS

The City may, without a formal competitive process, contract for the purpose of the investment of public funds or the borrowing of funds by the City when such investment or borrowing is contracted pursuant to duly enacted statute, ordinance, charter, or constitution.

10.055 INSURANCE CONTRACTS

Contracts for insurance where either the annual or aggregate premium exceeds $5,000 must be let by a formal competitive process or by one of the following procedures:

A. Agent of Record

The City may appoint a licensed insurance agent ("agent of record") to perform insurance services in connection with more than one insurance contract. Among the services to be provided is the securing of competitive proposals from insurance carriers for all coverages for which the agent of record is given responsibility. Proposals for coverage are presented to the City Manager or designee for approval:

1. Prior to the selection of an agent of record, the City shall make reasonable efforts to inform known insurance agents in the competitive market area that it is considering such selection. These efforts shall include a public advertisement in at least one newspaper of general circulation in the area. The advertisement shall generally describe the nature of the insurance that the City will require. If the amount of the annual premium for insurance other than employee benefits insurance is likely to exceed $10,000 per year, such notice shall also include a public advertisement in at least one insurance trade publication of general circulation in the state.

2. An agent's appointment shall not exceed a period of 5 years, but the same agent(s) may be selected in a subsequent period. Agents must qualify the appointments prior to each period as if each appointment period were the first.

3. In selecting an agent of record, the City shall select the agent(s) most likely to perform the most cost effective services at a level of competence acceptable to the City.

B. Specific Proposals for Insurance Contracts

The City may solicit proposals from licensed insurance agents for the purpose of acquiring specific insurance contracts subject to the following conditions:

1. The City shall make reasonable efforts to inform known insurance agents in the competitive market area of the subject matter of the contract and to solicit proposals for providing the
services required in connection with that contract. Such efforts shall include public advertisements in at least one newspaper of general circulation in the area. If the amount of annual premium for insurance other than employee benefits insurance is likely to exceed $10,000 per year, such notice shall also include a public investment in at least one insurance trade publication of general circulation in the state.

2. The City shall select an agent on the basis of the most competitive offer considering coverage, premium cost, and service to be provided.

10.060 EMPLOYEE BENEFIT INSURANCE

The City may purchase employee benefit insurance without formal competitive process. Such contracts include administrator of employee Flexible Spending Account Administration and Medical Claims Third Party Administration.

10.065 OFFICE COPIER PURCHASES

A. The City may enter into contracts for the purchase or lease of photocopiers without formal competitive process.

B. In exercising this exemption, the City shall consider the operating capabilities, limitations, and cost of each brand or model as well as cost and select the brand and vendor that will produce the best combination of performance and cost per copy for each application.

10.070 SOLE-SOURCE PROCUREMENT

The City may purchase without a formal competitive process if there is only one seller (sole seller) of a product or service of the quality required, or if the efficient utilization of existing equipment or supplies requires specification of a compatible product for which there is only one seller. The determination of a sole source must be based on written findings as required by ORS 279B.075. A sole source contract may be awarded only after approval of the findings by the City Manager, Assistant City Manager, or designee. To the extent reasonably practical, the City shall negotiate with single sellers to obtain the best possible contract terms for the City.

10.075 CONTRACT AMENDMENTS (INCLUDING CHANGE ORDERS AND EXTRA WORK)

A contract amendment for additional work, including change orders, extra work, field orders, or other change in the original specifications which increases the original contract price, may be made with the contractor without adhering to the requirements for sealed competitive bids or proposals under ORS chapters 279B or 279C provided a formal competitive process subject to the following conditions:

A. The original contract was let by a small procurement, intermediate procurement or formal competitive process, and the work added by the amendment is within the scope of the original contract, contract documents included unit prices or bid alternates were provided that provide a basis for determining the cost for additional work, and a binding obligation exists on the parties covering the terms and conditions of the additional work, or

B. The amount of the aggregate cost increase resulting from all amendments does not exceed 25%.
percent of the original contract amount and is within the project budget for the current fiscal year, so long as the total contract amount does not exceed $150,000.

A-C. Board approval is required for all amendments exceeding 25 percent of the original contract amount and when the amended contract amount exceeds $150,000. Pursuant to Section A of this rule, are not included in computing the aggregate amount under this section. The Board may, in its sole discretion, approve amendments exceeding the project budget for the current fiscal year if the Board finds it to be in the public's best interest to do so.

10.080 AFFIRMATIVE ACTION CONTRACTS

A. Pursuant to ORS 279A.100, public contracts may be awarded without a formal competitive process pursuant to a specific Affirmative Action plan. “Affirmative Action” is a program designed to insure equal opportunity in employment and business for persons otherwise disadvantaged by reason of race, religion, sex, national origin, age, or physical or mental handicap or a policy to give a preference in awarding public contracts to disabled veterans, including but not limited to personnel practices of contractors, “set-aside” programs, and minority business enterprises. These rules shall not be construed to prohibit engaging in practices designed to promote affirmative action goals and policies.

B. In carrying out the affirmative action policy, by appropriate ordinance, resolution or administrative rule, the City may limit competitive bidding on a public contract for procurement of goods and services or on any public contract estimated to cost $100,000 or less to contracting entities owned or controlled by persons described in Subsection A of this section.

10.085 COOPERATIVE PROCUREMENT PURCHASES OFF CONTRACTS BY OTHER PUBLIC AGENCIES

A. The City may participate in, sponsor, conduct or administer a Joint, Permissive or Interstate Cooperative Procurement purchase any good or service without a formal competitive process if the good or service is purchased from a bidder that has been awarded a contract for the same good or service, whether by a requirements contract or by individual contract by another public agency through its public contract purchasing procedures:

1. The source selection methods are “substantially equivalent” to those identified in Sections 10.015 or 30.010 if the solicitation and award process (a) Calls for award of a contract on the basis of a lowest responsible bidder or a lowest and best bidder determination in the case of competitive bids, or on the basis of a determination of the proposer whose proposal is most advantageous based on evaluation factors set forth in the Request for Proposals; (b) Does not permit the application of any geographic preference that is more favorable to Bidders or Proposers who reside in the jurisdiction or locality favored by the preference than the preferences provided in ORS 279A.120(2); and (c) Uses reasonably clear and precise specifications that promote suitability for the purposes intended and that reasonable encourage competition, original contract was awarded by a competitive bid or proposal process or pursuant to an exemption equivalent to an exemption provided by these rules.

B. For purposes of this Section the following definitions are applicable:

1. “Administering Contracting Agency” means a governmental body in this state or in another jurisdiction that solicits and established the original contract for the procurement of goods and services in a cooperative procurement.
2. “Cooperative Procurement” means a procurement conducted on behalf of more than one governmental body. “Cooperative Procurement” does not include an agreement formed among only governmental bodies under ORS chapter 190 or by statute, charter provision, ordinance or other authority for establishing agreements between or among governmental bodies or agencies or tribal governing bodies or agencies.

3. “Cooperative Procurement Group” means a group of governmental bodies joined through an intergovernmental agreement for the purposes of facilitating Cooperative Procurements.

4. “Interstate Cooperative Procurement” means a permission Cooperative Procurement in which the Administering Contracting Agency is a governmental body, domestic or foreign, that is authorized under the governmental body’s laws, rules or regulations to enter into Contracts and in which one or more of the participating governmental bodies are located outside this state.

5. “Joint Cooperative Procurement” means a Cooperative Procurement in which the participating governmental bodies or the Cooperative Procurement group and the bodies’or group’s contract requirements or estimated contract requirements for Price Agreements are identified.

6. “Original Contract” means the initial contract or Price Agreement solicited and awarded during a Cooperative Procurement by and Administering Contracting Agency.

7. “Permissive Cooperative Procurement” means a Cooperative Procurement in which the Purchasing Contracting Agencies are not identified.

8. “Purchasing Contracting Agency” means a governmental body that procures goods or services from a contractor based on the Original Contract established by an Administering Contracting Agency.

10.086 JOINT COOPERATIVE PROCUREMENTS
A. A joint cooperative procurement is valid only if:
   1. The conditions of Subsection 10.085 A are met;
   2. The Administering Contracting Agency’s solicitation and award process for the original contract or price agreement identifies the Cooperative Procurement Group or each participating Purchasing Contracting Agency and specifies the estimated contract requirements; and
   3. No material change is made in the terms, conditions or prices of the contract between the contractor and the Purchasing Contracting Agency from the terms, conditions and prices of the original contract between the contractor and the Administering Contracting Agency.

B. A Joint Cooperative Procurement may not be a Permissive Cooperative Procurement.

10.087 PERMISSIVE COOPERATIVE PROCUREMENTS
A. The City may enter into a Permissive Cooperative Procurement if:
   1. The conditions of Subsection 10.085 A are met;
   2. The Administering Contracting Agency’s solicitation and award process for the original contract allows other governmental bodies to establish contracts or prices agreements under the terms, conditions and prices of the original contract;
   3. The contractor agrees to extend the terms, conditions and prices of the original contract to the Purchasing Contracting Agency; and
   4. No material change is made in the terms, conditions or prices of the contract between the contractor and the Purchasing Contracting Agency from the terms, conditions and prices of the original contract between the contractor and the Administering Contracting Agency.
B. If the City wishes to enter into a contract or price agreement arising out of a Permissive Cooperative Procurement it must publish notice of its intent to do so if it is estimated that the City will spend in excess of $250,000, on goods and services acquired under the contract or price agreement. The notice of intent must include:

1. A description of the procurement;
2. An estimated amount of the procurement;
3. The name of the Administering Contracting Agency; and
4. A time, place and date by which comments must be submitted to the City regarding the intent to establish a contract or price agreement through a Permissive Cooperative Procurement.

C. The City shall advertise the notice in the same manner as provided in Section 30.075 D and shall give the notice required by this rule no fewer than seven (7) days before the deadline for submitting comments.

D. If the City receives comments on the intent to establish a contract or price agreement through a Permissive Cooperative Procurement, the City shall make a written determination.

10.088 INTERSTATE COOPERATIVE PROCUREMENTS

1. The City may procure goods and services through and Interstate Cooperative Procurement if:

   1. The conditions of Subsection 10.085 A are met;
   2. The Administering Contracting Agency’s solicitation and original contract allows other governmental bodies to establish contracts or price agreements under the terms, conditions and prices of the original contract; and
   3. The Administering Contracting Agency permits the contractor to extend the use of terms, conditions and prices of the original contract to the Purchasing Contracting Agency; and
   4. The City:
      a. was listed in the solicitation as a party that may establish contracts or price agreements under the terms, conditions and prices of the original contract and the solicitation was advertised in Oregon, or
      b. is a member of a Cooperative Procurement Group and the Group was listed in the solicitation of the Administering Contracting Agency as a party that may establish contracts or price agreements under the terms, conditions and prices of the original contract and the solicitation was advertised in Oregon; or
      c. publishes a notice of intent to establish a contract or price agreement. The notice shall include (i) a description of the proposed procurement; (ii) an estimated amount of the proposed procurement; (iii) the name of the Administering Contracting Agency; and (iv) a time, place and date by which comments must be submitted to the City regarding its intent to establish a contract or price agreement through and Interstate Cooperative Procurement.
      d. for procurements in excess of $250,000 advertise the notice in the same manner as provided in Section 30.075 D and shall give the notice required by this rule no fewer than seven (7) days before the deadline for submitting comments.
      e. shall make a written determination if comments are received from the notice.

The contract allows other public agency usage of the contract. A contract that does not prohibit other public agency usage of the contract shall be deemed to allow other public agency use, unless the agency that awarded the contract objects to the use.

2. The purchase is on the same terms, or terms which are no less favorable to the City in all material respects, as the contract awarded by the public agency.
B. A purchase under the Oregon Cooperative Purchasing Program or any similar federal or regional program, including the Electronic Government Act of 2002 (10 U.S.C. 381) shall be considered an exempt purchase under this exemption.

10.090 OIL OR HAZARDOUS MATERIAL REMOVAL

A. The City may enter into public contracts without a formal competitive process when ordered to clean up oil or hazardous waste pursuant to the authority granted the Department of Environmental Quality (DEQ) under ORS Chapter 466, especially ORS 466.605 through 466.680, and this order necessitates the prompt establishment and performance of the contract in order to comply with the statutes regarding spill or release of oil or hazardous material that has created an emergency condition. In exercising its authority under this exemption, the City shall:

1. To the extent reasonable under the circumstances, encourage competition by attempting to make informal solicitations or to obtain informal quotes from potential suppliers of goods or services.

2. Make written findings describing the circumstances requiring cleanup or a copy of the DEQ order ordering such cleanup.

3. Record the measures taken under Subsection 1 of this section to encourage competition, the amount of the quotes or proposals obtained, if any, and the reason for selection the contractor selected.

B. The City shall not contract pursuant to this exemption in the absence of an order from DEQ to clean up a site with a time limitation that would not permit hiring a contractor under the usual formal competitive process procedures.

10.095 CONTRACTS WITH QUALIFIED REHABILITATIVE FACILITIES

The City may enter into contracts with qualified rehabilitative facilities providing employment for disabled individuals under ORS 279.835 to 279.855 without a competitive process. The City shall contract with such agencies when required by law. To the extent competition exists among qualified non-profit agencies, the City shall select the qualified non-profit agency offering the lowest price for an acceptable level of service.

10.100 AMMUNITION

The City may enter into contracts for the purchase of lethal and non-lethal ammunition, both for service and for training, without a formal competitive process.

10.105 PUBLIC IMPROVEMENT CONTRACTS INVOLVING DESIGN OR CONSTRUCTION MANAGEMENT

The City may enter into public improvement contracts without competitive bidding if the contracts involve design or construction management or require expertise beyond normal construction work. Unless exempt under some other exemption, a competitive proposal process must be used. One of the following specific processes shall be followed:

A. Construction Manager/General Contractor
The City may select a person or firm to act as a Construction Manager/General Contractor (CM/GC) to construct public improvements by means of a competitive proposal process.

1. A CM/GC performs specified Construction Manager services in addition to traditional General Contractor services. A CM/GC contract shall require full performance within negotiated Guaranteed Maximum Price (GMP). The basis for payment shall be reimbursable direct costs plus a fee constituting full payment for work and services rendered, which together shall not exceed the GMP.

2. The solicitation documents shall include:
   a. A description of the evaluation process and criteria and weighting. The criteria may include cost, quality, experience, availability, commitment to timely completion, and other factors.
   b. As part of the selection process, if the City chooses to hold interviews the scoring from the interviews will be combined to the other evaluation criteria to arrive at a proposer’s final score and ranking.
   c. State that any savings the construction manager/general contractor realizes in performing the contract will accrue to the City, unless the contract provides otherwise.
   d. Specify terms and conditions that govern how the fixed price, guaranteed maximum price or other maximum price set forth in the contract will be determined and whether the price includes or is based on unit pricing or allows for work that is constructed in phases.
   e. State that the City will not pay any amount that exceeds a fixed price, guaranteed maximum price or other maximum price specified in the contract unless the amount results from material changes to the scope of work set forth in the contract and the parties to the public improvement contract agree in writing to the material changes. The process to be followed for establishing the guaranteed maximum price.
   f. Specify deadlines and time periods for the procurement that allow prospective contractors a reasonable opportunity to submit proposals, including but not limited to:
      1) The date and time by which the City must receive proposals;
      2) The dates on which or the time periods during which the City will conduct interviews, if the City chooses to hold interviews; and
      3) The time period which the City will meet with those proposers not selected, if a proposer requests a meeting to discuss the procurement.
   g. A description of the circumstances under which any of the following activities may be authorized and undertaken for compensation prior to establishing the GMP, but only after unit prices are established:
      1) Early procurement of materials and supplies;
      2) Early release of bid packages for such things as site development; and
      3) Other advance work related to critical components of the project.

3. The contract documents shall include:
a. A description of the method by which the CM/GC shall competitively select contractors and subcontractors or the portions of subcontract work that may waive the qualification and selection process.

b. Either the maximum guaranteed price or a process for establishing a guaranteed maximum price.

c. A description of the situations in which the CM/GC may perform the work of the improvement without subcontracting, including any requirement that the CM/GC compete with others to do the work and the work that the CM/GC may perform directly without a competitive process.

d. The standards or factors under which changes or additional work that warrants an increase in the GMP, as well as criteria for decreasing the GMP. The GMP shall not be increased without a concomitant increase to the scope of the GMP.

e. The disposition of any cost savings resulting from completion of the work below the GMP, including the CM/GC share, if any, in those cost savings. Normally, the cost savings should accrue to the City. For purposes of this Section “savings” means a positive difference between a fixed price, guaranteed maximum price or other maximum prices set forth in the contract and the actual cost of the work, including costs for which the City reimburses the CM/GC and fees or profits the CM/GC earns.

f. The items or categories of items are eligible for cost reimbursement within the GMP.

g. A provision for a final audit adjustment and process.

h. A fee that is inclusive of profit, overhead and all other indirect or non-reimbursable costs. Costs determined to be included within the fee should be expressly defined wherever possible. The fee, first expressed as a proposed percentage of all reimbursable costs, shall be identified during and become an element of the selection process. It shall subsequently be expressed as a fixed amount when the GMP is established.

i. Any economic incentives, the specific criteria that apply and their relationship to other financial elements of the Contract (including the GMP).

B. Design-Build Contracts

1. A design-build contract is one in which a single entity designs and constructs a public improvement. Design-build contracts shall only be used if City staff has the expertise and experience to administer a design-build contract. The design-build process may be used to:

   a. Obtain through a Design-Build team, engineering design, plan preparation, value engineering, construction engineering, construction, quality control and required documentation as a fully integrated function with a single point of responsibility;

   b. Integrate value engineering suggestions into the design phase, as the construction contractor joins the project team early with design responsibilities under a team approach, with the potential of reducing contract changes;

   c. Reduce the risk of design flaws, misunderstandings and conflicts inherent in construction contractors building from designs in which they have had no opportunity for input, with
the potential of reducing contract claims;

d. Shorten project time as construction activity (early submittals, mobilization, subcontracting
and advance work) commences prior to completion of a "biddable" design, or where a
design solution is still required (as in complex or phased projects); or

e. Obtain innovative design solutions through the collaboration of the contractor and
design team, which would not otherwise be possible if the contractor had not yet been
selected.

2. A design-build contractor must have an Oregon licensed design professional(s) on staff that
will be assigned to the City's project. The design-build contractor must disclose in its proposal
the name of the Oregon licensed design professional(s) and verify that the professional(s) will
be the one(s) providing primary design services to the City.

3. A design-build contractor awarded a contract shall provide additional security as required by
ORS 279C.380(1)(a). The obligation is not intended to be a substitute for professional
liability insurance and does not include errors and omissions or latent defects coverage.

4. The level or type of design services required must be clearly defined within the solicitation
documents and contract, along with a description of the level or type of any design services
previously performed for the project. The services to be performed shall be clearly delineated
as either design specifications or performance standards.

5. The contract shall clearly identify the liability of design professionals, shall include
requirements for professional liability insurance, and shall clearly identify the extent of any
indemnity or warranty.

C. Other Public Improvement Contracts Where Quality is an Issue

In many situations, including those projects that require a higher than normal level of expertise
or skill, quality of the final product may be important beyond meeting minimum specifications.
In those situations, the City may use a request for proposal process, provided that the cost factor
constitutes at least 75% percent of the total evaluation score. In scoring the cost factor, the
proposer submitting the lowest cost amount shall receive the maximum possible score for the
cost factor, and the scores of the other proposers shall be reduced by the percentage by which
their cost exceeded the lowest cost. For example, if the maximum score for the cost factor is 80,
the lowest cost proposer would get a score of 80. A proposer with a cost that is 10 percent
higher would have the score reduced by 10 percent (8 points), to 72.

10.110 INDIVIDUAL EXEMPTIONS

A. The City may exempt a particular contract or contracts from formal competitive process
requirements which are not otherwise exempted under these rules. Staff shall prepare an
informational packet for the Board when requesting the declaration of an individual exemption
that contains the following details:

1. The nature and scope of the project or purchase;

2. Estimated cost of the project or purchase;
3. A narrative description of the cost savings anticipated by the exemption from the formal competitive process and the reasons the formal competitive process would be inappropriate;

4. Proposed alternative contracting and purchasing practices to be employed; and

5. The estimated date by which it would be necessary to let the contract.

B. The Board may require such additional information as it deems necessary to determine whether a specific contract is to be exempt from the formal competitive process.

C. The Board shall hold a public hearing and adopt findings justifying the individual exemption. The findings shall at a minimum address include the findings required by ORS 279B.085(3) for contracts other than public improvements or ORS 279C.335 for public improvement contracts.

D. Notification of the public hearing shall be published in a newspaper of general circulation in the City a minimum of 14 days prior to the hearing. Notification shall be published as required in Section 30.035 of this Rule in a trade newspaper of general circulation in the state if required by the Public Contracting Code.

E. The notice shall state that the public hearing is for the purpose of taking comments on the City's draft findings for an exemption from the formal competitive process requirement. At the time of the notice, copies of the draft findings shall be made available to the public. At the option of the City, the notice may describe the process by which the findings are finally adopted and may indicate the opportunity for any further public comment.

F. At the public hearing, the City shall offer an opportunity for any interested party to appear and present comment.

G. If the City is required to act promptly due to circumstances beyond its control that do not constitute an emergency, notification of the public hearing can be published simultaneously with the City's solicitation of contractors for the alternative public contracting method, as long as responses to the solicitation are due at least five days after the meeting and approval of the findings.

10.115 CLASS EXEMPTIONS

A. The Board may exempt certain public contracts or classes of public contracts from the formal competitive process requirements by amending these rules upon approval of the following findings:

1. It is unlikely that such exemption will encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts;

2. The awarding of public contracts pursuant to the exemption will result in substantial cost savings to the City. In making such findings, the Board may consider the type, cost, amount of the contract, number of persons available to bid, and such other factors as may be deemed appropriate; and

3. The exemption otherwise substantially supports the public interest in a way that could not be achieved under existing rules.

B. The Board shall adopt a class exemption only after a duly noticed public hearing. The notice of
the hearing shall be posted as required in Section 30.035 of this Rule at least 14 days prior to the hearing in full public view in the City Hall and published in a newspaper of general circulation at least 14 days prior to the hearing. If the exemption involves a public improvement, the notice shall also be published in a trade publication of statewide circulation.

10.120  JUSTIFICATION OF PUBLIC IMPROVEMENT CONTRACTS AWARDED OTHER THAN BY COMPETITIVE BIDDING

Upon completion of and final payment for any public improvement contract in excess of $100,000 for which the City did not use the competitive bidding process, the City shall prepare and deliver to the Local Contract Review Board an evaluation of the public improvement project. The evaluation shall include but not be limited to:

A. The actual project cost as compared with original project estimates.

B. The amount of any guaranteed maximum price.

C. The number of project change orders issued.

D. A narrative description of successes and failures during the design, engineering and construction of the project.

E. An objective assessment of the use of the alternative contracting process as compared to the findings required by ORS 279C.335.

Evaluations required by this section shall be made available for public inspection and shall be completed within 30 days of acceptance of the project.

10.125  SOFTWARE AND HARDWARE MAINTENANCE, LICENSES, SUBSCRIPTIONS AND UPGRADES

The City may award a contract or renew existing contracts for information technology for software and hardware maintenance, licenses, subscriptions and upgrades without following a small procurement, intermediate procurement or formal competitive process if it is determined that the maintenance, licenses, subscriptions and upgrades are available from only one source or, if available from more than one provider, are obtained from the City’s current provider in order to utilize the pre-existing knowledge of the vendor regarding the specifics of the City’s hardware or software system. The City shall document in the procurement file the facts that justify availability from only one source or, if from more than one source, from the current provider.

little to no competition exists for the required software. In determining whether or not competition exists, the City may consider the following factors:

A. The extent to which software is able to be integrated with City systems including both hardware and software.

B. The stability of the software company, which shall include:

1. The software’s track record in the industry;

2. The software’s companies financial standing; and

3. The frequency of upgrades that enhance the software.
C. The overall cost of the software, which shall include the City's internal costs of upkeep on the software.

Contracts for annual software maintenance may also extend past the standard five (5) year maximum contract terms detailed in these rules so long as maintaining the software continues to be in the City's best interest.

10.130 TELECOMMUNICATION SERVICES

The City may award a contract for telecommunications services without a formal competitive process if it determines that no competition exists among services suppliers. In determining whether competition exists, the City may consider the following factors:

A. The extent to which alternative providers exist in the relevant geographic and service market. The relevant market will vary from service category to service category and cannot be predetermined in advance.

B. The extent to which alternative services offered are comparable or substitutable in technology, service provided, and performance. For example, if the City's requirement is for digital services, analog services are not comparable or substitutable.

C. The extent to which alternative providers can respond to the City's interests in consistency and continuity of services throughout its service area, volume discounts, and centralized management. The City must document for the record its findings on these factors or any other factors used in determining whether competition exists. In developing its findings, the City may solicit information by any means, including informal discussions or correspondence or through a formal Request for Information.

10.135 DEVELOPER PROVISION OF PUBLIC IMPROVEMENTS

At times, private developers may provide work on public improvements for the City as required by a condition of land use approval or to comply with a land use approval or as required by a development agreement with the City. The developer in those circumstances is conclusively deemed to be a sole source for the provision of the public improvements, without the need for findings. No competitive process is required to enter into a development agreement that includes the provision of public services by a developer or for a developer to provide and the City to accept public improvements as required by a condition of approval.

There are also times when the City may contract with a developer to provide services on a public improvement due to the developers work in the area even through the work may not be a condition of land use. In these circumstances, the City must provide determination that there will be significant savings to the City to contract with the developer. This determination must be made in writing and made part of the project's permanent file. In these cases the developer shall conclusively deemed to be a sole source for the provision of the public improvement. No competitive process is required to enter into a public improvement contract for the developer to provide services on the public improvements if the savings are determined to be significant enough to warrant such an exemption.

10.140 TEMPORARY PERSONNEL SERVICES

The City may enter into contracts for the purchase of temporary personnel services without a formal competitive process. Whenever possible, the City shall request that staffing agencies submit multiple
resumes of potential candidates for the requesting division or department to review prior to hiring the service.

**PCR 15.000 - PRICE AGREEMENTS**

15.010 PRICE AGREEMENTS

As authorized by ORS 279B.140 The City may enter into Price Agreements that allow the City to purchase whatever quantity it needs from contractor. A Price Agreement constitutes a firm offer by the contractor regardless of whether any order or purchase has been made or any performance has been tendered under the Price Agreement, providing the following conditions are met:

- The contract is awarded by a formal competitive process.
- The term of the contract including renewals does not exceed 5 years.

15.015 MULTIPLE PRICE AGREEMENTS PERMITTED

The City may enter into price agreements with more than one supplier for the same goods or services.

**PCR 20.000 - BRAND NAMES OR MARKS**

20.010 SPECIFICATION OF PARTICULAR BRAND NAMES OR PRODUCTS

A. Specifications for public contracts shall not expressly or implicitly require any product of any particular manufacturer or seller except pursuant to an exemption under PCR 20.015 (Copyrighted Materials), 20.020 (Single Manufacturer or Compatible Products), 20.025 (Product Pre-qualification), or 20.030 (Brand Name or Equal Specifications Mark Exemption Applications).

B. If there is no other practical method of specification, the City may designate a particular brand name, make or product "or equal", but this practice should be avoided whenever possible.

20.015 COPYRIGHTED MATERIALS

The City may specify a specific copyrighted product. This exemption does not include patented or trade mark goods.

20.020 SINGLE MANUFACTURER OR COMPATIBLE PRODUCTS

A. If there is only one manufacturer or seller of a product of the quality required, or if the required product is data processing equipment which will be used for research where there are requirements for exchange of software and data with other research establishments, or if the efficient utilization of the existing equipment or supplies requires a compatible product of a particular manufacturer or seller, the City may specify such particular product subject to the following conditions:

   1. The product is selected on the basis of the most competitive offer considering quality and
20.025 PRODUCT PRE-QUALIFICATION

A. When it is impractical to create specific design or performance specification for a type of product to be purchased, the City may specify a list of approved products by reference to particular manufacturers or sellers according to the following product pre-qualification procedure:

1. The City has made reasonable efforts to notify known manufacturers or vendors of competitive products of its intention to accept applications for inclusion in its list of pre-qualified products. Notification shall include advertisement in a trade journal of statewide distribution when possible. In lieu of advertising, the City may notify vendors and manufacturers appearing on the appropriate list maintained by the Oregon Department of Transportation (ODOT) Qualified Products List or any list produced and maintained by the Oregon Department of General Services.

2. The City permits application for pre-qualification of similar products up to 15 days prior to advertisement for bids on the product.

B. If an application for inclusion in a list of pre-qualified products is denied, or an existing pre-qualification revoked, the City shall notify the applicant in writing. The applicant may appeal to the Board for a review of the denial or revocation in the same manner as an appeal of disqualification or denial provided in PCR 30.150.

20.030 BRAND NAME OR EQUAL SPECIFICATIONS MARK-EXEMPTION
A—**Brand Name or Equal**: The City may expressly or implicitly use a brand name or equal specification, as defined in ORS 279B.200 (1), as an abbreviated means of specifying City needs. In such case contractors may substitute equivalent or superior products. The Invitation to Bid or Request for Proposals may require that the City approve substitutions prior to the submission of offers; otherwise substitutions are allowed after contract award, if they are then approved by the City. The City will make the determination provided for under ORS 279B.215 (1) (b). apply for and receive a brand name or mark exemption ruling from the Board. Applications shall contain the following information:

B—
A brief description of the contract or contracts to be covered. The description should include contemplated future purchases.

D—
The brand name, mark or product to be specified.

F—
The reasons the City is seeking the exemption.

**B. Brand Name Specification**: The City may expressly or implicitly use a brand name specification as defined in ORS 279B.200(2), when the Contracts and Purchasing Manager determines that doing so meets the requirement of ORS 279B.215 (2). Such determination shall be effective only for the period of time designed. Determinations under ORS 279B.215 (2) shall be available for public inspection upon request. The Board may grant brand name or mark exemptions only if either of the following conditions are met:

1. The exemption is not likely to encourage favoritism in public contracts or substantially diminish competition and will result in cost savings.

2. There is only one manufacturer or seller of the product of the quality required, or efficient utilization of existing equipment or supplies requires acquisition of compatible equipment or supplies.

**PCR 25.000 — MINORITY OWNED BUSINESSES, WOMAN OWNED BUSINESSES, AND EMERGING SMALL BUSINESSES AND SERVICE-DISABLED VETERAN OWNED BUSINESSES**

**25.010 MINORITY OWNED BUSINESSES, WOMAN OWNED BUSINESSES, AND EMERGING SMALL BUSINESSES, AND SERVICE-DISABLED VETERAN OWNED BUSINESSES**

It is the policy of the City to provide opportunities for available contracts to certified minority owned, woman owned and emerging small businesses and businesses that service-disabled veterans own and to cooperate with the Oregon Business Development Department State or Oregon Advocate for Minority, Women and Emerging Small Business to determine the best means by which to make such opportunities available.

**25.015 AUTHORITY TO REQUIRE SUBCONTRACTING WITH CERTIFIED MINORITY OWNED BUSINESSES, WOMAN OWNED BUSINESSES, AND EMERGING SMALL BUSINESSES AND BUSINESSES THAT SERVICE DISABLED VETERANS OWN**
The City may, in solicitation documents, require that some portion of the work to be performed or some portion of the materials to be delivered be provided by a certified emerging small business or service-disabled business under ORS 200.055 and establish other requirements authorized by ORS 279A.105.

**PCR 30.000 - FORMAL COMPETITIVE PROCESSES**

**30.010 DEFINITIONS**

For purposes of this chapter, the following definitions apply:

A. "Addenda to the Bid Documents" means additions or changes to the bid documents defined as addenda shall be labeled as such and distributed according to these rules.

B. "Bid" means an offer submitted in response to an Invitation to Bid.

C. "Bid Closing" means the date and time announced as the deadline for the receipt of bids.

D. "Bid Opening" means the date, time and place set for opening of bids.

E. "Bid Sample" means a representative specimen of the item that will be available in response to the bid.

F. "Bidder" is a person who submits a bid in response to the City's Invitation to Bid.

G. "Bidding Period" means the span of time between the date of the Invitation to Bid and the time and date set for receipt of bids. A minimum of 14 calendar days shall be provided, unless a shorter time is deemed necessary in the public interest for a particular procurement.

H. "Board" means Local Contract Review Board.

I. "Contract" means the written agreement, including the City's solicitation document and the accepted portions of a bid or proposal, between the City and the contractor describing the work to be done and the obligations of the parties. Depending upon the goods and services being procured, the City may use "contract" as meaning a purchase order, price agreement, or other contract document in addition to the City's solicitation document and the accepted portions of a bid or proposal. If the contract is for a public improvement, the "contract" may consist of the City's solicitation document, including any addenda, the general and special conditions governing the work, the accepted portions of the bid or proposal, the performance and payment bond (if required), plans, technical specifications, approved shop drawings, and any contract amendments, including approved change orders.

J. "Contract Price" means the total of the awarded bid or proposal amount, including any approved alternates and any fully executed change orders or amendments.

K. "Contract Release Order" means the document authorizing an additional purchase on an existing requirement contract.

L. "Contractor" means the individual, firm, or corporation awarded the public contract to furnish the City the goods, services, or work procured in the City's solicitation.
M. "Descriptive Literature" means materials submitted by prospective vendors to provide information concerning the products available in response to the bid.

N. "Lowest Responsible Bidder" means the lowest bidder who has substantially complied with all prescribed public bidding procedures and requirements and who has not been disqualified by the public contracting agency under ORS 279B.130 or 279C.440.

O. "Proposer" is a person who submits a proposal in response to the City's Request for Proposals.

P. "Solicitation Document" means an Invitation to Bid or Request for Proposals which included all documents, whether attached or incorporated by reference, utilized for soliciting bids or proposals.

Q. "Specifications" means any description of the physical or functional characteristics or of the nature of a supply, service, or construction item. Specifications may include a description of any requirement for inspecting, testing, or preparing a supply, service, or construction item for delivery and the quantities or qualities of materials to be furnished under the contract. Specifications generally will state the result to be obtained and may, on occasion, describe the method and manner of doing the work to be performed. Specifications may be incorporated by reference and/or through attachment to the contract.

30.010 COMPETITION

A. Contracts issued by the City shall be awarded by formal competitive process except as otherwise exempted under the Oregon Public Contracting Code or these rules.

B. It is the policy of the City to encourage public contracting competition that supports openness and impartiality in the maximum extent possible.

C. The City finds that:

1. Competition exists not only in prices, but in the technical competence of suppliers, in their ability to make timely deliveries, and in the quality and performance of their products and services and that a balance must exist between performance competition and price competition.

2. The nature of effective competition varies with the product or service being procured and, that while competitive sealed bids are a common method of procurement, it is not always the most advantageous, practical or cost-effective method of source selection. The cost of the selection process must be considered — a costly selection process is not appropriate for contracts with a low dollar value.

3. Meaningful competition can be achieved through a variety of methods when procuring products or services. The methods include but are not limited to:

a. Price competition as represented by the initial or acquisition price;

b. Competition as represented by price and performance evaluations of the competing items and suppliers;

c. Competition as represented by the evaluation of the capabilities of bidders or proposers.
to perform needed services;


d. Competition as represented by evaluation of the capabilities of the bidders and proposers to perform the services followed by a negotiation on price;

e. Competition as represented by another method of procurement that is reasonably determined to satisfy the City's needs.

D. All public contracts shall be made under conditions that foster or reflect competition among a sufficient number of potential suppliers that offer a wide spectrum of products and services and that represent a broad marketplace. Fostering competition shall be reflected in:

1. Research made to determine possible new sources of supply;
2. Attempts made to ensure solicitation documents are simple and inviting;
3. Everyday courtesy shown to prospective suppliers and contractors; and
4. The way information on contracting opportunities is provided to suppliers including but not limited to advertisement in publications of general circulation or in trade publications and any other reasonable methods that encourage competition.

E. The City may evaluate every aspect of competition in its efforts to purchase products or services, choose the appropriate solicitation process, or award contracts according to the criteria described herein and arrive at offers that represent optimal value to the City.

30.020 ELIGIBILITY TO BID ON CONSTRUCTION CONTRACTS

A person shall not submit a bid or proposal to work as a construction contractor unless that person is first registered has a current, valid certificate of registration issued by the Construction Contractors Board or a current, valid landscape contractors license in the State Landscape Contractors Board as required by ORS 671.530. Bids from persons who fail to comply with this requirement shall be deemed non-responsive and be rejected.

The City may require prequalification of bidders in accordance with ORS 279C.430 and ORS 279C.435. The City may also disqualify a bidder from consideration for contract award in accordance with ORS 279C.440.

30.025 SOLICITATION DOCUMENTS

The City may solicit and award a public contract for goods or services or may award multiple public contracts for goods or services when issuing an Invitation to Bid the requirements of ORS 279B.055 are followed and in the case of a Request for Proposals ORS 279B.060. At a minimum, solicitation documents shall include the following:

A. Instructions and information to bidders or proposers concerning the submission requirements, including the time and date set for opening, the name, address and title of the person designated to receive bids and a contact person, if different, a statement the bid or proposal must be physically received by the City by the deadline and any other special information relating to bid submission. The bid closing date deadline shall be at least seven days after the first publication of notice and five days after the last publication of notice.
B. The date that pre-qualification applications must be filed if pre-qualification is a requirement.

C. The character of the work to be done or the items to be purchased, including, as applicable: specifications, delivery or performance schedule, inspection and acceptance requirements, and special evaluation factors;

D. The office where any additional information, including additional specifications, may be reviewed or obtained;

E. For bids—the contract terms and conditions, including warranty and bonding or other security requirements, as applicable. For proposals, a list of contract terms required by the City, a list of additional issues to be included in the contract, and a list of issues for which the proposer is expected to propose contract terms.

F. That the solicitation may be cancelled or that any or all bids/proposals may be rejected for not complying with all prescribed procedures and requirements;

G. That any and all bids/proposals may be rejected for good cause on a finding that it is in the public interest to do so;

H. In invitations to bid, a statement whether the bidders is a resident bidder as defined in ORS 279A.120 (1) (b);

I. That a contractor must be licensed for asbestos abatement under ORS 468A.710, if applicable;

J. A statement that no bid or proposal for construction shall be received or considered by the City unless the bidder or proposer is registered with the Construction Contractors Board per PCR 30.020;

K. If bid or proposal security is required, a description of the security required;

L. A description of any performance and payment bonding requirements;

M. For proposals, a description of the manner in which proposals will be evaluated and the relevant value of each evaluation factor, including price. If a multi-tiered process is used, that process will be described, including the process for protesting the decision at any stage of the process;

N. If applicable, a statement that no bid will be considered unless the bid contains a statement that the bidder will comply with ORS 279C.840 or 40 USC 276a; and

O. All addenda issued by the City.

30.030 BIDS AND PROPOSALS ARE OFFERS

A. Bids and proposals constitute an offer to enter into a contract which, if accepted by the City, shall bind the bidder or proposer to a contract unless the bid or proposal is withdrawn prior to opening.

B. The bid or proposal shall constitute a "firm offer" unless bidders or proposers are specifically authorized to take exceptions or to leave terms open to negotiation by the Invitation to Bid or
Request for Proposals. However, nothing in this provision prohibits the City from negotiating with a bidder or proposer to the full extent allowed by state law. Unless expressly authorized by the solicitation documents or these rules, bidders or proposers shall not make their bids or proposals contingent upon the City's acceptance of specifications or contractual terms that conflict with or are in addition to those advertised in the solicitation documents.

30.035 PUBLIC NOTICE

A. Distribution

Solicitation documents or notices of the availability of bid documents shall be mailed to likely bidders and proposers, placed on the Oregon Department of Administrative Service’s electronic procurement system known as the "Vendor Information Program," or otherwise furnished to a sufficient number of bidders or proposers for the purpose of securing competitive bids or proposals. Notice of availability shall indicate where, when, and for how long the bid/proposal documents may be obtained. The City may charge a fee for the bid documents.

B. Invitation to Bid and Request for Proposals Advertising

The City shall advertise every formal competitive Invitations to Bid and Request for Proposals in a solicitation of bids or proposals shall be advertised. An advertisement for bid/proposal shall be published at least once in at least one newspaper of general circulation in the Portland metropolitan area, and on the City’s website. If the Contracts and Purchasing Manager makes a determination that limiting the posting of the notice solely by electronic means is cost effective to the City, then publishing the notice in a newspaper may be waived, and in as many additional issues and publications as the City may determine to be necessary or desirable to ensure competition.

2. Public Improvement Advertising

If the public improvement contract has an estimated cost in excess of $125,000, the advertisement must be published in at least one trade newspaper of general statewide circulation. For public improvement contracts estimated less than $125,000 if the Contracts and Purchasing Manager makes a determination that limiting the posting of the notice solely by electronic means is cost effective to the City, then publishing the notice in a newspaper may be waived, for a construction contract in excess of $100,000 notice shall be published in at least one trade newspaper of general statewide circulation. The City shall endeavor to provide information concerning bids and proposals on its website and may post information on other databases.

1. All advertisements for bids or proposals shall state:

a. The date and time after which bids/proposals will not be received, which date shall not be less than five (5) days after the date of the last publication of the advertisement;

b. The date that pre-qualification applications must be filed if pre-qualification is a requirement;

c. The work to be performed or the items to be purchased;

d. The office where additional documentation, including specifications, specifications may be reviewed or obtained;
e. The name, title, and address of the person designated to receive bids;

f. The date, time, and place that bids or proposals will be opened;

g. If for a public improvement, whether the prevailing wage provisions of ORS 279C.800 to 279C.870 and/or the Davis-Bacon Act (40 U S C 3141 et seq. 276a) apply.

C. Posting of bid or proposal advertisement

A copy of each bid or proposal advertisement shall be posted at the business office of the City. Bidders or proposers may obtain a copy upon request.

30.040 BID OR PROPOSAL PREPARATION

Bid and Proposal Preparation Instructions:

A. Except as otherwise allowed, or unless electronic offers are permitted as applicable, bids and proposals shall be typed according to the solicitation instructions. They shall be prepared in ink and shall be signed in ink by the submitter or an authorized representative. The City will not accept facsimile bids, proposals, or signatures.

B. Bids and proposals shall be made on the bid forms provided unless otherwise instructed in the solicitation document.

C. Alterations or erasures, if any, shall be initialed in ink by the person authorized to submit the bid/proposal prior to the solicitation closing date in accordance with the solicitation document instructions. Signing the bid.

D. Bids and proposals shall include all required documents and descriptive literature as required under the solicitation document.

D-E. If the solicitation document permitted electronic submission a bidder/proposer may submit its bid/proposal electronically. The City shall not consider electronic submissions unless authorized by the solicitation document.

30.045 BIDDER PRE-QUALIFICATION

The City may require mandatory pre-qualification of bidders on forms prescribed in the bid document. When pre-qualification is required by the bid documents as a condition for bidding, the City shall not consider the bid(s) of any prospective bidder who is not pre-qualified. The City shall determine qualifications within 30 days of receipt of an application for prequalification. In determining responsibility of the applicant, the City shall consider only the criteria listed in ORS 279B.110(2). The City may have a separate pre-qualification process. If a bidder is currently pre-qualified by the Oregon Department of Transportation to perform specific classes of work, the bidder shall be presumed qualified to perform similar work for the City.

30.050 BIDDER SUBMISSIONS

A. Samples and Descriptive Literature
Samples or descriptive literature may be required when it is necessary to evaluate required characteristics of an item. Samples may be returned in accordance with provisions contained in the bid documents.

B. Identification of Bids and Proposals

Bids and proposals shall be submitted in a sealed envelope appropriately marked to ensure proper identification and special handling. The City shall not be responsible for the proper identification and handling of any bid not submitted in the designated manner or format to the required delivery point. The City may refuse to accept or may reject any bid or proposal not properly sealed or marked.

C. Receipt of Bid or Proposal

It is the submitter's responsibility to ensure that bids or proposals are received by the City at the required delivery point prior to the stated bid or proposal closing time regardless of the method used to submit or transmit them.

30.055 BID SECURITY

A. Public Improvement Contracts

Bid security not to exceed 10 percent of the base bid(s) shall be required for public improvement contracts where the amount of the contract exceeds $100,000 or, in the case of contracts for highways, bridges and other transportation projects, more than $50,000. The City may require bid security on any public improvement contract if it finds it is in the best interest of the City to do so. The bid security shall be forfeited if the bidder fails to execute the contract promptly and properly after the City has awarded the contract.

B. Other Public Contracts

Bid/proposal security not to exceed 10 percent of the bid/proposal cost may be required by the City for other contracts in order to guarantee acceptance of the award. This requirement shall be stated in the solicitation documents if in effect.

C. Contracts Under $10,000

Bid security for contracts of less than $10,000 shall be required only in critical circumstances so as not to discourage competition.

D. Form of Bid Security

The following forms of bid security will be accepted by the City:

1. Surety bond from surety company authorized to do business in the State of Oregon;

2. Cashier's check, certified check, or savings and loan secured check; or

3. Annual surety bond filed with the City (except for public improvement contracts).

E. Return of Bid Security
The bid security of all unsuccessful bidders shall be returned after a contract has been executed or all bids have been rejected. The City may return the bid security of unsuccessful bidders after bid opening but prior to award if the return does not prejudice bid award and provided that the security of at least the three lowest bidders is retained pending the execution of a contract.

E. Security for Proposals

If contracts are to be awarded based on competitive proposals, the City may, in its discretion, require proposal security on the same terms as the bid security described in this section. Proposal security shall normally be required for any public improvement contract to be awarded by a proposal process.

30.060 PRE-BID OR PRE-PROPOSAL CONFERENCES

Pre-bid or pre-proposal conferences may be held by the City to explain the City's requirements, conduct site inspections, or otherwise supplement or clarify information. The City may require attendance at the conference as a condition for bidding or submitting a proposal. The conferences shall be announced in the solicitation documents. The conference shall be held within a reasonable time after the solicitation documents have been issued but sufficiently before bid closing to allow consideration of the conference results in preparing submittals. Statements at the conference shall not change the solicitation documents unless confirmed to all prospective bidders or proposers by means of a written addendum to the solicitation documents.

30.065 ADDENDA TO SOLICITATION DOCUMENTS

A. Form

Changes to solicitation documents shall be accomplished by addenda. The bidder or proposer shall acknowledge receipt of all addenda issued, either with the bid or proposal or separately prior to opening. A solicitation may be delayed or suspended by addendum if in the best interest of the City.

B. Distribution

Addenda may be distributed by U.S. mail, hand delivery, e-mail, an online vendor portal or other electronic means. Failure to receive an addendum to a solicitation does not excuse failure to acknowledge receipt of the addendum, even if the failure to receive was through no fault of the prospective bidder/proposer. The City, in its sole discretion, may extend a solicitation closing date to allow a bidder or proposer time to acknowledge receipt of an addendum. All addenda shall be sent to all prospective bidders or proposers known to have obtained the solicitation documents or attended any mandatory conferences.
C. **Timeliness**

1. Addenda shall be issued within a reasonable time prior to bid closing to allow consideration prior to submittal of the bid or proposal, but in no case less than 48 hours before the submittal deadline. The standard minimum notification for City-issued addenda shall be 72 hours prior to the close of the bid or proposal. If staff has need to issue any addenda with less than 72 hours (but not less than 48 hours) staff shall document for the project file the reasons for the shorter notification timeframe. If necessary, the City may notify prospective bidders or proposers by telephonic facsimile (fax), e-mail, or telephone. If telephone is used, the City shall confirm the oral notice with a written addendum.

2. In its discretion, the City may extend the closing date and time to allow prospective bidders or proposers to analyze and adjust to changes made by Addenda. The City shall notify prospective bidders or proposers of new closing date and time either in the Addendum or in writing accompanying the Addendum.

D. **Addenda to Multi-Tier RFPs**

If a multi-tier process is used to evaluate proposals, the City may issue addenda applicable to any tier of the process at least 5 days before starting that tier of the process. If the City does issue such addenda, amended or supplemental proposals may be submitted before the next tier of the process is started.

### 30.070 PRE-OPENING MODIFICATION OR WITHDRAWAL OF BIDS OR PROPOSALS

A. **Modifications**

Bids or proposals once submitted may be modified in writing prior to the time and date set for bid closing. Any modifications shall be prepared on the company letterhead, signed by an authorized officer, and state that the new document supersedes or modifies the prior bid or proposal. To ensure the integrity of the process, the envelope containing any modifications to a bid or proposal shall be marked as follows:

- Bid/Proposal Modification
- Bid/Proposal Title, Number, and/or Other Identification

B. **Withdrawals**

1. Bids or proposals may be withdrawn by written notification on company letterhead signed by an authorized person and received prior to the time and date set for closing. Bids or proposals also may be withdrawn in person prior to the scheduled closing upon presentation of appropriate identification.

2. Unopened bids or proposals withdrawn under subsection (a) above may be released to the bidder after voiding any date and time documentation detailed as the result of the initial submittal.
3. Requests to withdraw mailed bids or proposals shall be marked as follows:

   Bid/Proposal Withdrawal
   Bid/Proposal Title, Number, and/or Other Identification

C. Documentation

   All documents relating to the modification or withdrawal of bids or proposals shall be made a part of the appropriate bid file.

30.075 RECEIPT, OPENING, AND RECORDING OF BIDS AND PROPOSALS

A. Receipt

   Upon receipt, each bid, proposal, or modification shall be time-stamped or marked by hand but not opened and shall be stored in a secure place until opening. If bids, proposals, or modifications are opened inadvertently or are opened prior to the time and date set for opening because they were improperly identified, the bids, proposals, or authorized modification documents shall be resealed and stored for opening at the correct time. When this occurs, documentation of the procedure shall be placed in the file.

B. Opening and Recording

   Bids and modifications shall be opened publicly, at the time, date, and place designated in the bid documents. If witnesses are present at the bid opening, and to the extent practicable, the name of each bidder, the bid price(s), and such other information as considered appropriate, shall be read aloud. On voluminous bids the City may advise bidders as part of the bid documents that the bid items and prices will not be read aloud.

   Proposals may be opened at any time after the deadline for submittal of proposals. A summary sheet providing basic information about each proposal shall be prepared.

C. Availability

   Opened bids shall be available for public inspection prior to award except to the extent the bidder designates trade secrets or other proprietary data to be confidential (ORS 192.345(2)). Proposals shall not be available for public inspection until after a contract is awarded and entered into. The City shall verify and determine that the confidential information claimed to be exempt is in fact exempt from disclosure under the Oregon Public Records Law. Material so designated shall accompany the bid and shall be readily separable from the bid or proposal in order to facilitate public inspection of the non-confidential portion of the bid or proposal. Prices, makes, model, or catalog number of items offered, scheduled delivery dates, and terms of payment shall be publicly available regardless of any designation to the contrary.

D. Notice of Intent to Award

   1. This section applies to awarding of contracts except for Small Procurements, Intermediate Procurements, Emergency Procurements and Exemptions pursuant to Section 10.000.
4-2. The City shall provide a notice of intent to award to each person that has submitted a bid or proposal. If the solicitation was posted by electronic means, however the City may post the Intent to Award electronically in the same manner. The notice shall be posted at least seven days before the award of a contract, unless the City determines that circumstances require prompt execution of the contract. The notice shall state the date, time and location of the bid award decision. The notice shall include the name of the person or entity that staff recommends the contract be awarded to. The notice shall include any bid comparisons sheets or proposal comparison sheets.

30.080 LATE BIDS, PROPOSALS, WITHDRAWALS, AND MODIFICATIONS

Any bid, proposal, withdrawal, or modification received after the deadline for submission set in the solicitation documents is late and shall not be considered. The City may use any watch or clock to determine the time and the determination of the City employee or officer receiving the bid shall be final and not subject to challenge.

30.085 MISTAKES

A. General

Under extraordinary circumstances, a bid or proposal may be withdrawn after the deadline for submittal because of an inadvertent nonjudgmental mistake. If the mistake is attributable to an error in judgment, the bid or proposal may not be withdrawn or corrected. Correction or withdrawal by reason of nonjudgmental mistake is permissible but only to the extent it is not contrary to the interest of the City or the fair treatment of other bidders or proposers.

B. Mistakes Discovered after Bid Closing but before Award

This section applies to situations where mistakes in bids are discovered after the submission deadline but before award.

1. Minor Informalities

Minor informalities are matters of form rather than substance that are evident from the bid documents, or insignificant mistakes that can be waived or corrected promptly without prejudice to other bidders or the City; that is, the informality does not affect price, quantity, quality, delivery, or contractual conditions except in the case of informalities involving unit prices. Examples include, but are not limited to, the failure of a bidder to:

a. Return the number of signed bids or number of other documents required by the bid documents;

b. Sign the bid form in the designated block so long the bid documents evidence an intent to be bound; or

c. Acknowledge receipt of an addendum to the bid documents, but only if:

   1) It is clear from the bid that the bidder received the addendum and intended to be bound by its terms; or

   2) The addendum involved did not affect price, quantity, quality, or delivery.
C. Mistakes Where Intended Correct Bid is Evident

If the mistake and the intended correct bid are clearly on the face of the bid form, or can be substantiated from accompanying documents, the City may accept the bid. Examples of mistakes that may be clearly evident on the face of the bid form are typographical errors, errors in extending unit prices, transposition errors, and arithmetical errors. Mistakes that are clearly evident on the face of the bid form or proposal document also may include instances in which the intended correct bid or proposal item is made clearly evident by simple arithmetic calculations. For example, a missing unit price may be established by dividing the total bid or proposal item by the quantity of units for that item, and a missing or incorrect total bid or proposal price for an item may be established by multiplying the unit price by the quantity when those figures are available on the bid or proposal. For discrepancies between unit prices and extended prices, unit prices shall normally prevail.

D. Mistakes Where Intended Correct Bid is Not Evident

The City may not accept a bid in which a mistake is clearly evident on the face of the bid form but the intended correct bid is not clearly evident or cannot be substantiated from accompanying documents.

30.090 TIME FOR ACCEPTANCE

Bids shall be valid and binding offers for 30 days from the deadline to submit bids unless otherwise specified in the bid documents. Proposals shall be binding and valid offers for 60 days from the date of the submittal deadline.

30.095 EXTENSION OF TIME FOR ACCEPTANCE OF BID OR PROPOSALS

The City may request orally or in writing that bidders or proposers extend the time in which the City may accept their offers.

30.100 EVALUATION AND AWARD

A. General

The contract, if awarded, is to be awarded to the lowest responsive and responsible bidder or the best responsive and responsible proposer. Consistent with the provisions of the solicitation documents and in the public interest as determined by the City, awards may be made by item, groups of items, or entire bid or proposal. The City reserves the right to reject any bid or proposal not in compliance with the solicitation documents or with state law, City Code, or these rules. The City reserves the right to reject any or all bids or proposals upon a finding by the City that it is in the public interest to do so.

B. Special Requirements

1. Solicitation documents shall set forth any special requirements and criteria that will be used to determine the lowest responsible bidder. No bid shall be evaluated for any requirement or criterion that is not disclosed in the bid documents or City regulation.
2. In determining the lowest responsible bidder, the City shall, for the purpose of awarding the contract, add a percent increase on the bid of a non-resident bidder equal to the percent, if any, or of the preference given to that bidder in the state in which the bidder resides.

3. The City may rely on a list provided for by the Oregon Department of Administrative Services pursuant to ORS 279A.120 (1) (4) for preference provided for by this section.

C. Product Acceptability

1. The solicitation documents shall set forth the evaluation criteria to be used in determining product acceptability. The City may require the submission of samples, descriptive literature, technical data, or other material, and may also provide for accomplishing any of the following prior to award.
   a. Demonstration, inspection, or testing of a product prior to award for such characteristics as quality or workmanship;
   b. Examination of such elements as appearance, finish, taste, or feel; or
   c. Other examinations to determine whether the product conforms to specifications.

2. The acceptability evaluation is conducted only to determine that a bidder's offering is acceptable as provided in the bid documents. Any bidder's product which does not meet the minimum requirements shall be rejected.

D. Determination of Lowest Responsive and Responsible Bidder

Following determination of product acceptability as set forth in subsection C, if applicable, bids will be evaluated to determine which bidder offers the lowest cost to the City in accordance with the evaluation criteria set forth in the bid documents. Only objectively measurable criteria, which are set forth in the bid documents, shall be applied in determining the lowest responsible bidder. Examples of such criteria include, but are not limited to, transportation cost, volume weighing, trade-in allowances, depreciation allowances, cartage penalties, and ownership or life cycle cost formulas. Evaluation factors need not be precise predictors of actual future costs, but to the extent possible, such evaluation factors:

1. Are reasonable estimates based upon information the City has available concerning future use;

2. Treat all bids equitably; and

3. Recognize that public policy requires acquisitions and public improvements to be accomplished at the least cost.

The City shall take into account any preferences provided by these rules in determining the lowest bid.
E. Determination of Best, Responsive, and Responsible Proposer

Proposals will be evaluated to determine which proposer offers the best solution to the City in accordance with the evaluation criteria set forth in the solicitation documents. Only the criteria set forth in the solicitation documents shall be applied. The criteria shall be as objective as possible. Examples of evaluation criteria may include, but are not limited to, cost, quality, service, compatibility, product reliability, operating efficiency, expansion potential, performance history on other private and public contracts, experience of key personnel, adequacy of equipment and/or physical plan, financial wherewithal, sources of supply, references and warranty provisions. Evaluation factors need not be precise predictors of actual future costs and performance, but to the extent possible, such evaluation factors shall:

1. Be reasonable estimates based on information available to the City;
2. Treat all proposals equitably;
3. To the extent that the proposal involves a public improvement, recognize that public policy requires public improvements to be accomplished at the least cost.

F. In evaluating proposals, the City may use any of the following methods:

1. An award based solely on an evaluation of the written proposals;
2. Discussions with a number of proposers leading to a best and final offer from each proposer and an evaluation of the best and final offers;
3. An award based on the written proposals and interview performance;
4. Serial negotiations, staring with the highest ranked proposer;
5. Competitive simultaneous negotiations;
6. A multi-tiered process, with some number of proposer being eliminated at each stage of the process;
7. A multi-stage process, with a qualifications determination at the first stage of the process, followed by cost considerations; or
8. Any other method or combination of methods designed to best serve the needs of the City and its taxpayers.

The solicitation document shall describe the process to be followed.

G. No Assignment or Transfer of Contract Rights

Unless an express provision of the public contract otherwise provides, the contractor shall not assign, sell or transfer rights, nor delegate responsibilities, under public contract, either in whole or
in part, without first obtaining the City's prior written consent. Unless otherwise agreed by the City in writing, such consent shall not relieve the contractor of any obligations under a public contract, and any assignee or transferee shall be considered the agent of the contract and bound to abide by all provisions of the public contract. Except in the event of a novation, if the City consents in writing to an assignment, sale, or transfer of the contractor's rights and responsibilities, the contractor and its surety, if any, shall remain ultimately liable to the City for complete performance of the public contract as if no such assignment, sale, or transfer had occurred.

30.105 LIFE CYCLE COST ANALYSIS

A. In determining the lowest responsible bidder, in the award of a contract, the City may use the cycle costing. As used in this rule, life cycle costing means determining the cost of a product for its useful life.

B. The City shall follow these procedures:

1. At the time of writing specifications for the product, the City shall identify those factors which will have cost implications over the life of the product and which, for evaluation purposes, will be used to adjust the bid or proposal price of the product.

2. The solicitation documents shall set out clearly the factors and methodology to be used in life cycle cost adjustments.

3. The results of life cycle costing adjustments shall be applied to the bid or proposal price of the product(s) offered. The bid or proposal that results in the lowest overall ownership cost, taking into account the life cycle costing adjustments, shall be considered the lowest bid or best proposal for purposes of bid or proposal price evaluation.

30.110 RESPONSIBILITY

A. A responsible bidder or proposer is one who has:

1. Adequate financial resources to perform the contract, or the ability to obtain such resources. The City shall require acceptable evidence of the bidder's or proposer's ability to provide or obtain the required financial resources. Acceptable evidence normally consists of, but is not limited to, current and recent balance sheets; income statements; cash flow statements; and/or a performance bond from an acceptable surety in an amount equal to the bid or proposal price. Such evidence may also include a commitment of specific arrangement that will be in existence at the time of contract award to rent, purchase, or otherwise acquire the needed facilities, equipment, or other resources;

2. The ability to comply with the required or proposed delivery or performing schedule, taking into consideration all existing commercial and public business commitments;

3. A satisfactory performance record. A bidder or proposer who is, or recently has been, seriously deficient in contract performance shall be presumed to be non-responsible, unless the City determines that the circumstances were properly beyond the contractor's control or that the contractor has taken appropriate corrective action. Record of failure to perform
acceptably is strong evidence of non-responsibility. The City shall consider the number of contracts involved and the extent of the deficiency of each in making this evaluation. In addition, the City may consider whether the bidder's performance history demonstrates responsibility as defined in ORS 279B.110 and 279C. 375;

4. Key personnel available of sufficient experience, as determined by the City, to perform the contracts;

5. The necessary organization, experience, accounting and operational controls, and technical skills, or the ability to obtain these skills and abilities as required to satisfactorily perform the contract. These may include, as appropriate, such elements as production control procedures, property control systems, and quality assurance measures applicable to materials to be produced or services to be performed by the bidder and its proposed subcontractor(s);

6. The necessary production, construction, and technical equipment and facilities, or the ability to obtain them;

7. A satisfactory record of integrity;

8. For contractors on public improvement contracts, has not been determined to be not responsible by the Construction Contractors Board; and

9. Is otherwise qualified and eligible to receive award under applicable laws and regulations.

B. The City shall consult with the Construction Contractor's Board concerning the responsibility of any person to whom a public improvement contract is proposed to be awarded and shall comply with the reporting requirements of ORS 279C.375. The City has the right, prior to awarding any public contract, to make such investigation as is necessary to determine whether abider or proposer is responsible. This investigation may include, but is not limited to:

1. An inquiry into the responsibility of proposed subcontractors and suppliers.

2. Requiring a bidder or proposer to demonstrate its financial ability to perform the contract as provided in subsection A.1 of this rule. In exercising this right, the City shall notify the apparent successful bidder or proposer in writing to submit such documentation as the City deems necessary to complete a thorough evaluation of financial ability.

3. By submitting a bid or proposal, a bidder or proposer authorizes the City to request any credit report information the City deems necessary to investigate and evaluate financial responsibility to perform the contract(s).

C. Failure of a bidder or proposer to promptly supply information requested by the City during its responsibility investigation shall be grounds for a finding of non-responsibility.

D. Only bids and proposals from responsible bidders or proposers, as defined in this rule, shall be eligible for contract award. Bid or proposals from non-responsible bidders or proposers shall be rejected as provided in PCR 30.115.
30.115 RESPONSIVE AND NON-RESPONSIVE BIDS OR PROPOSALS; ACCEPTANCE AND REJECTION

A. A "responsive bid or proposal" is one that complies in all material aspects with the solicitation documents and with all prescribed public bidding procedures and requirements.

B. A "non-responsive bid or proposal" is one which:

1. Omits, or is unclear as to the price and the price cannot be determined in the bid or proposal documents;
2. Offers goods or services of a quality or quantity inferior to that requested in the solicitation documents;
3. Does not meet the delivery date requirements specified in the solicitation documents;
4. Takes exception to the terms and conditions of the solicitation documents other than as allowed by these rules or the solicitation documents;
5. Is conditional upon the City's acceptance of terms and conditions difference from those contained in solicitation documents, except as allowed by these rules or the solicitation documents; or
6. Contains a deviation which, if the bid or proposal were accepted, would give the bidder or proposer a substantial advantage or benefit not shared by other bidders or proposers to the solicitation documents.

C. The City shall accept, and consider for award, only those bids or proposals, which are responsive as defined in this rule. Non-responsive bids or proposals shall be rejected, as provided in PCR 30.115.

30.120 LOW TIE BIDS

A. Definition

Low tie bids are low responsive bids from responsible bidders that are identical in price, fitness, availability and quality and which meet all the requirements and criteria set forth in the bid documents.

B. Award

1. If low tie bids are received, a preference shall be given to goods and services that have been manufactured or produced in Oregon.
2. If the bids remain tied after application of the Subsection 1, preference shall be given to the bidder whose principal offices or headquarters are located in Oregon.
3. If the bids remain tied after application of Subsections 1 and 2, the award shall be made by drawing lots among any tied Oregon bidders. Such bidders shall be given notice and an opportunity to be present when the lots are drawn.

4. If there are no Oregon bidders after application of subsections 1 and 2, award of the contract shall be made by drawing lots.

**30.125 REJECTION OF INDIVIDUAL BIDS OR PROPOSALS**

A. General

This section applies to rejections, in whole or in part, of individual bids or proposals. The City may reject in whole or in part, any bid not in compliance with all prescribed bidding procedures and requirements and may reject for good cause any bid or proposal upon a written finding of the City that it is in the public interest to do so. No bid shall be considered unless the bid security, properly executed, has been submitted with the bid as required by the bid documents.

B. Reasons for Rejection

Reasons for rejecting a bid or proposal include but are not limited to:

1. The submitter has not pre-qualified when pre-qualification is required or has been disqualified;

2. The submitter has been barred as set forth in Section 30.150 (C) or declared ineligible by the Commissioner of the Bureau of Labor and Industries under ORS 279.361;

3. The bid or proposal is non-responsive, that it does not conform in all material respects to bid documents or requirements, including all prescribed public procurement procedures and requirements;

4. The supply, service, or construction item offered in the bid or proposal is unacceptable by reason of its failure to meet the requirements of the solicitation documents or permissible alternates or other acceptability criteria set forth in the solicitation documents;

5. The submitter is not capable of satisfying the terms and conditions of the public contract in a timely manner due to financial incapacity; inability to obtain bonding, loss of license, or other objective cause;

6. The submitter within the last 5 years has been found, in a civil, criminal, or administrative proceeding, to have committed fraud, misrepresentation, price-rigging, unlawful anti-competitive conduct, or similar behavior;

7. The submitter has been determined responsible (i.e., adjudicated by a court, or as determined in writing by the City agency in the case of a public contract) for more than one breach of a public or private contract(s) in the last 3 calendar years before the scheduled date of the bid opening;
8. The security has not been submitted or properly executed as required by the solicitation documents;

9. When applicable, the bidder has not met the emerging small business, disadvantaged business, minority business, and women business enterprise requirements, if any, established by the City, and has not made a good faith effort to comply with the requirements prior to the time bids are opened;

10. The submitter failed to certify in accordance with Section D of this rule;

11. Other circumstances of the particular bid, proposal, or submitter (including submitter's subcontractors) indicate that acceptance of the bid or proposal would impair the integrity of the selection process or result in an imprudent contract by the City; or

12. The contractor has discriminated against subcontractors because the subcontractor is a minority, women or emerging small business enterprise certified under ORS 200.055.

C. Form of Business Entity

The corporate or business form of bidders or proposers shall be subject to scrutiny, so that previously disqualified bidders or proposers, or their officers and directors, may not by subterfuge, change of apparent ownership, or other adjustments in formal appearance, avoid application of this rule.

D. Non-discrimination Certification

The bidder or proposer shall certify as part of the bid that the contractor has not discriminated against subcontractors because the subcontractor is certified as a minority, women, or emerging small business enterprise or service-disabled business.

30.130 REJECTION OF ALL BIDS OR PROPOSALS

A. Bid Rejection

All bids or proposals may be rejected for good cause upon a written finding by the City that it is in the public interest to do so. Notification of rejection of all bids or proposals, along with the good cause justification and finding of public interest shall be sent to all that submitted a bid or proposal.

B. Rejection Criteria

Reasons for rejecting all bids or proposals include but are not limited to:

1. An error in the solicitation documents, including its terms, conditions, or specifications that unnecessarily restricted competition for the public contract;

2. The price, quality, or performance presented by the lowest or best responsible bidder or proposer is, in the City’s opinion, too costly or of insufficient quality to justify acceptance of
the bid or proposal. This criterion may be satisfied evidence that the same goods or services can be obtained otherwise for less cost;

3. Misconduct, error, or ambiguous or misleading provisions in the bid documents or process threaten the fairness and integrity of the competitive process; or

4. Causes other than legitimate market forces threaten the integrity of the competitive procurement process. These causes include, but are not limited to, those that tend to limit competition such as restrictions on competition, collusion, corruption, unlawful anti-competitive conduct, and inadvertent or intentional errors in the bid documents.

30.135 PROTESTS OF AWARD

A. Purpose

The written notice of award of the contract shall constitute a final decision by the City to award the contract if no written protest of the notice of award is filed with the City within seven calendar days of the notice of award or such other period as provided in the City's solicitation. Adversely affected or aggrieved bidders or proposers must exhaust all avenues of administrative review and relief before seeking judicial review of and decision by the City under the Public Contracting Code or these rules.

B. Right to Protest

Any actual bidder or proposer who is adversely affected or aggrieved by the City's notice of award of the contract to another bidder or proposer on the same solicitation shall have seven calendar days after notice of award to submit to the City a written protest of the notice of award or such other time as provided in the solicitation documents. The written protest shall specify the grounds upon which the protest is based. In order to be adversely affected or aggrieved, a bidder or proposer must itself claim to be eligible for award of the contract as the lowest responsible bidder or best proposer and must be next in line for award; i.e., the protester must claim that all lower bidders or better proposers are ineligible for award because they are non-responsive or non-responsible. The City shall not entertain a protest submitted after the time period established in this rule or such different period as may be provided in the City's solicitation.

C. Method of Protest

If a protest is timely filed, it must contain also contain the following information:

1. Identification of the contract award that is being disputed;
2. A detailed statement of all legal and factual grounds for the protest;
3. Evidence or supporting documentation that supports the grounds on which the protest is based;
4. A description of the resulting harm to the “Adversely Affected or Aggrieved” bidder/proposer; and
5. The relief requested.

D. Authority to Resolve Protests
The City Manager, or designee, shall have the authority to settle or resolve a written protest submitted under section E of this rule.

E. Decision

If the protest is not settled or resolved by mutual agreement, the City Manager, or designee, shall promptly issue a written opinion on the protest. If the opinion denies the protest, judicial review of this decision will be available if provided for by statute. If the City Manager or designee determines that there is good cause for the protest, the matter shall be submitted to the Board for further action. The decision of the Board on a protest shall be final. Both the protestor and the person to whom the contract was awarded shall have a right to present arguments to the Board.

30.140 PROTESTS OTHER THAN NOTICE OF AWARD

A. A protest may be filed to contest the adoption or amendment of these rules, adoption of a class or contract specific exemption, solicitation documents (including specifications and contract terms), or the process used in the solicitation. The protest must be filed with the City's Contracts and Purchasing Office within 7 days of the adoption or amendment of rules or exemptions, the publication of solicitation documents, or other action being protested. Grounds for protest are limited to:

1. That the City acted contrary to law;
2. That the City's actions unnecessarily restrict competition; or
3. That the City has improperly specified a brand name.

B. The protest must include:

1. Sufficient information to identify the solicitation;
2. The grounds for the protest;
3. Evidence or supporting information; and
4. The relief sought.

C. The City Manager shall, if possible, issue a written decision on the protest under this section at least three days before any bid or proposal opening that could be affected by the protest.

D. A bidder or proposer who does not protest a proposed contract term included in the solicitation documents must accept the contract term as included in the solicitation documents.

E. If protest of a solicitation is timely received, the opening date may be extended if necessary to allow consideration for the protest and issuance of any addenda to the solicitation documents.

F. Envelopes containing protests of solicitation specifications shall be marked as follows:

Specification Protest
Bid/Proposal Title, Number, and/or Other Identification

30.145 NEGOTIATION
A. Negotiation with Bidders

If a project is competitively bid and all responsive bids from responsible bidders exceed the City's cost estimate, the City may negotiate with the lowest responsive, responsible bidder, prior to awarding the contract, in order to solicit value engineering and other options to attempt to bring the project within the agency's cost estimate.

1. A negotiation with the lowest responsive, responsible bidder pursuant to this paragraph shall not result in the award of the contract to that bidder if the scope of the project is significantly changed from the original bid proposal.

2. Notwithstanding any other provision of law, the records of a bidder used in contract negotiation pursuant to this paragraph are not subject to public inspection until after the negotiated contract has been awarded or the negotiation process has been terminated.

B. Negotiation with Proposers

The City may negotiate with proposers after proposal opening in order to try to reach the best possible contract for the City. Proposals may be revised in the course of negotiations for the best offer, provided that any revision is not so extensive as to be unfair to other proposers who do not have the opportunity to negotiate.

30.150 BIDDER DISQUALIFICATION

A. Definitions - As used in this rule:

1. "Disqualification" means the debarment, exclusion or suspension of a person from right to submit bids or proposals in response to the City's solicitations for a reasonable, specified period of time named in the order of disqualification. A contractor or vendor so debarred, excluded or suspended, is disqualified.

2. "Person" means an individual, partnership, or corporation. Disqualification attaches to and follows the individual, so that an individual who is a partner in a partnership or an officer or principal in a corporation which is disqualified may not re-form the business entity as a way of avoiding the disqualification.

B. Grounds for bid-specific disqualification include:

1. The person does not have sufficient financial ability to perform the contract. If a bond is required to ensure performance of a contract, evidence that the person can acquire a surety bond in the amount and type required shall be sufficient to establish financial ability;

2. The person does not have equipment available to perform the contract;

3. The person does not have key personnel available of sufficient experience to perform the contract; or

4. The person has repeatedly breached contractual obligations to public and private contracting agencies.
5. The person has discriminated against a subcontractor because the subcontractor is a minority, women, or emerging small business enterprise or service-disabled veteran owned business certified under ORS 200.055.

6. The person has engaged in conduct prohibited by ORS 200.075, including:
   a. If the person has entered into any agreement representing that a disadvantaged, minority, women or emerging small business enterprise or service-disabled veteran owned business, certified pursuant to ORS 200.055, will be performing or supplying materials under a public improvement contract without the knowledge and consent of the certified enterprise;
   b. If the person exercises management and decision-making control over the internal operations, as defined by ORS 200.075(1)(b), of any certified disadvantaged, minority, women or emerging small business enterprise or service-disabled veteran owned business;
   c. If the person uses a disadvantaged, minority, women or emerging small business enterprise or service-disabled veteran owned business to perform contracting services or provide supplies under a public improvement contract to meet an established Disadvantaged Business Enterprise (DBE)/Minority-owned Business Enterprise (MBE)/Woman-owned Business Enterprise (WBE)/Emerging Small Business (ESB) or Service-Disabled Veteran (SVE) goal, when the enterprise does not perform a commercially useful function, as defined by ORS 200.075(3), in performing its obligations under the contract.

C. Debarment

A prospective bidder or proposer may be debarred from consideration for an award for a period of up to three years if convicted of a criminal offense relating to a public contract; convicted of a crime involving dishonesty (as provided in ORS 279B.130(2)(b), convicted under antitrust statutes, has violated a contract and debarment for violation was listed in the contract terms, or failure to carry workers compensation or unemployment insurance.

Debarment shall be by written decision explaining the reasons for the debarment and explaining appeal rights. Appeals shall be provided under ORS 279B.425. Any appeal must be filed with the City’s Contracts and Purchasing Office within three days after receipt of the notice of debarment.

D. Investigation

The City may make such investigation as is necessary to determine whether a person is qualified. If a bidder or prospective bidder fails to supply information promptly as requested by the City, such failure is grounds for disqualification.

E. Notice of Disqualification

The bidder or prospective bidder will be notified in writing by personal service or certified mail of the City’s decision to disqualify the person from bidding with the City. The notice shall contain:

1. The effective date of the disqualification and the effective period of disqualification;
2. The grounds for disqualification from bidding; and
3. A statement of the contractor's appeal rights and applicable appeal deadlines.

F. Appeal of Disqualification

If a contractor wishes to appeal the City's decision to disqualify, the contractor must notify the City in writing within three business days after receipt of the notification. The City shall mail its notice to the contractor by Certified Mail Return Receipt Requested, if not personally served. Appeals shall be conducted under the procedures and standards of ORS 279C.445 and 279C.450. A protest of a denial, revocation, or revision of a prequalification shall be filed within three business days after receipt of notice of the decision. On receipt of the protest, a hearing shall be set before the Local Contract Review Board and the hearing shall be held and the decision issued within 30 days of receipt of the protest. The Local Contract Review Board will consider the action de novo, based on applicable standards. If the denial is upheld, the person filing the protest shall reimburse the City for costs of processing the protest.

30.155 CANCELLATION OF INVITATIONS TO BID OR REQUEST FOR PROPOSALS

A. Cancellation in the Public Interest

An Invitation to Bid or request for proposal may be canceled, in whole or in part, and all bids received may be rejected when it is in the public interest as determined by the City. The reasons therefore shall be made part of the file.

B. Notice of Cancellation

When an Invitation to Bid or request for proposal is canceled prior to the submission deadline, notice of cancellation shall be sent to all known holders of the documents. When an Invitation to Bid or Request for Proposals is canceled after deadline for submission, notice shall be sent to those who submitted a bid or proposal. The notice of cancellation shall:

1. Identify the specification documents;

2. Briefly explain the reason for cancellation; and

3. Where appropriate, explain that an opportunity will be given to compete on any re-solicitation.

30.160 DISPOSITION OF BIDS OR PROPOSALS IN EVENT OF CANCELLATION

A. Prior to Bid Opening

When an invitation for bids or Request for Proposals is canceled prior to opening of the bids or proposals, all submissions will be returned unopened, if submitted with a clearly visible return address. If there is no return address on the envelope, the submissions will be opened to determine the source and then returned to sender.

B. After Opening

When all bids or proposals are rejected, those received shall be retained and become part of the City's permanent project file.
30.165 DOCUMENTATION OF AWARD

A. Basis of Award

Following award, a record showing the basis for determining the successful bidder shall be made a part of the file.

B. Contents of Award Record

The record shall consist of:

1. Completed bid tabulation sheet; or
2. Completed proposal evaluations; and
3. Written justification of any rejection of lower bids; or
4. Written explanation for any rejection of proposals for failing to meet mandatory requirements of the Request for Proposals.

30.170 FOREIGN CONTRACTOR

If a contractor is not domiciled in or registered to do business in the State of Oregon, the City shall require the contractor to promptly provide the Oregon Department of Revenue and the Secretary of State Corporation Division with any and all information required by those agencies relative the contract between the contract and City. The City shall have the right to withhold final payment to the contractor under this Rule until the contractor has met the requirement under the Rule.

30.175 CONTRACT TERMS AND CONDITIONS

A. Required Terms and Conditions

The City shall establish standard terms and conditions for contracts. Contracts shall includer provisions relating to the following, if applicable. For those provisions referring to statutes, the contract language shall comply with and implement the statutes.

1. Payment of laborers and material suppliers; contributions to Industrial Accident Fund; liens and withholding taxes, and drug testing (ORS 279B.220, 279C.505);
2. Payment of claims by public officers, payments to first tier subcontractors and claims by labor and materials suppliers (ORS 279C.515),
3. Hours of labor (ORS 279B.020, 279B.235, 279C.520, 279C.540);
4. Environmental and natural resources regulations (279B.525);
5. Payment for medical care, compliance with or exemption from workers compensation laws (ORS 279B.230, 279C.530);
6. Prevailing wage rates (ORS 279C.830);
7. Salvaging, recycling, composting or mulching yard waste material, and salvage and recycling of construction and demolition debris (ORS 279B.225, 270C.510);

8. Certification by contractor of compliance with the Oregon tax laws according to ORS 305.385;

9. Certification by contractor of nondiscrimination as to relations with subcontractors (ORS 279A.110);

10. Inclusion of provisions in contracts with subcontractors, as required by ORS 279C.580;

11. Progress payments and retainage;

12. Bonding requirements (performance and payment bonds, and bonds required to be filed with the Construction Contractors Board or BOLI); and

13. Any other requirement imposed by federal or state law, regulation, rule or ordinance, which is applicable to the contract.

B. The City may develop and require contract provisions relating to the following:

1. Termination of the contract;

2. Suspension of the work;

3. Labor and materials liens;

4. Liability in absence of bond;

5. Use of recovered resources and recycled and recyclable materials, including paper, oils, and tires;

6. Any other term to further the City's and the public interest.

C. Terms and Conditions Applicable to Construction Contracts

In cases where the contract calls for work as described in ORS 701.005(2) (i.e.; construction work), the contracts shall contain:

1. Certification by the "contractor" that the contractor is registered with the Construction Contractors Board according to ORS 701.035 to 701.055, unless prohibited by federal regulations.

2. Certification by the contractor that all subcontractors performing work as described in ORS 701.005(2) will be registered with the Construction Contractors Board according to ORS 701.035 to 701.055 before the subcontractors commence work under this contractor.

D. Special Terms and Conditions

The City may also establish special terms and conditions applicable to specified categories of contracts.
Any special terms and conditions shall be included in the bid documents and become an integral part of those contracts.

E. Compliance and Exceptions to Terms and Conditions

1. Bidders and proposers shall be responsible for noting the terms and conditions included applicable to each set of solicitation documents.

2. By submitting a bid or proposal, the bidder or proposer acknowledges acceptance of and the intent to abide by the terms and conditions specified in the Invitation to Bid or Request for Proposals and agrees to enter into a contract consistent with state public contracting law requirements. Submission of a bid or proposal without objection to provisions listed in the form contract included in the solicitation documents constitutes an offer to enter into a contract on those terms and no negotiation of those terms is permitted after the contract award.

3. The City has the right to reject any bid or proposal that takes exception to specifications or to contract terms unless the right to take exception is expressly granted in the Invitation to Bid or Request for Proposals. Bids or proposals which take exception to the specifications or contract terms, or which are made contingent upon the City's acceptance of different or additional specifications or terms, may be rejected because they are not responsive to the Invitation to Bid or the Request for Proposals.

4. Any exceptions to any proposed terms and conditions must be clearly stated in writing by the bidder or proposer in the signed bid or proposal. The City reserves the right to reject or accept any bid or proposal that takes exception to the terms and conditions but must take into account any objections in comparing the bid or proposal to other bids or proposals. Exceptions to the terms and conditions become contractual obligations only upon written acceptance by the City.

F. Commentary

The following is a list of federal, state, and local agencies of which the City has knowledge that have enacted ordinances or regulations dealing with the prevention of environmental pollution and the preservation of natural resources that may affect the performance of contracts:

**FEDERAL AGENCIES:**
- Agriculture
  - Department of Forest Service
  - Soil Conservation Service
- Defense
  - Department of Army Corps of Engineers
- Energy
  - Department of Federal Energy Regulatory Commission
- Environmental Protection Agency
- Department of Health and Human Services
- Housing and Urban Development
  - Department of Solar Energy Conservation Bank
- Interior, Department of
  - Bureau of Sports Fisheries and Wildlife
  - Bureau of Outdoor Recreation
  - Bureau of Land Management
  - Bureau of Mines
Bureau of Indian Affairs
Bureau of Reclamation
Geological Survey
Minerals Management Service
Labor, Department of
Mine Safety and Health Administration
Occupational Safety and Health Administration
Transportation, Department of
Coast Guard
Federal Highway Administration
Water Resources Council

STATE AGENCIES:
Administrative Services, Department of
Agriculture, Department of Columbia River Gorge Commission
Consumer & Business Services, Department of Oregon Occupational Safety & Health Division
Energy, Department of
Environmental Quality, Department of
Fish and Wildlife, Department of
Forestry, Department of
Geology and Mineral Industries, Department of
Human Resources, Department of
Land Conservation and Development Commission
Parks and Recreation, Department of
Soil and Water Conservation Commission
State Engineer
State Land Board
Water Resources Board

LOCAL AGENCIES:
City Council
County Court
County Commissioners, Board of
Port Districts
Metropolitan Services Districts
County Service Districts Sanitary Districts
Water Districts
Fire Protection Districts

30.180 AVAILABILITY OF AWARD DECISIONS - CONTRACT RETENTION

A. Contract Documents

A signed purchase order, agreement, or contract, as applicable, shall be executed with the person to whom the contract is awarded.

B. Notification to Unsuccessful Bidders

Unsuccessful bidders and proposers will be provided with the notice of intent to award. Tabulations of awarded bids shall be posted on the City's website or may be obtained in accordance with the City's Public Record Request policies.
C. **Availability of Files**

Completed files, other than confidential materials, shall be available for public review at the City in accordance with the City's Public Records policies.

D. **Copies from Files**

Copies of material from files may be obtained in accordance with the City's Public Records policies.

E. **Contract Retention**

The following requirements on retention of contract documents after award shall apply:

1. For all service contracts the original must be kept for six (6) years after the contract has been completely executed;

2. Capital improvement contracts must be kept a minimum of ten (10) years after substantial completion;

3. Goods contracts must be kept for six (6) years after maturity;

4. Intergovernmental and interagency agreements must be kept a minimum of 10 years after substantial completion; and

5. Other purchasing related documents should be retained according to City retention schedules;

6. Any copies of the originals must be kept for two (2) years after maturity in all of the categories listed above.

**30.185 REQUESTS FOR PROPOSALS**

A. The City may use the request for proposal process for any contract for which price is not the sole factor for awarding the contract. When the City uses a request for proposal, the solicitation document shall state:

1. The necessary contract terms;

2. The evaluation criteria to be applied in awarding the contract and the role of an evaluation committee, if any;

3. The criteria for awarding the contract, which may include but are not limited to cost, quality, service, experience, expertise, compatibility with existing or future City assets, product reliability, operating efficiency, and expansion potential;

4. Complaint processes and remedies available;

5. The provisions made for vendors to comment on any specifications that they believe limit competition; and
6. The location where sealed written proposals are to be submitted and the date and deadline for submittal.

All requests for proposals shall be advertised pursuant to Section 30.035 of these rules, published at least once in a newspaper, journal, trade publication or similar periodical. In deciding where to advertise, the City shall consider what publication is most likely to be read by qualified proposers.

B. The City may establish an ad hoc proposal review committee to evaluate any proposal and may provide for an interview of selected proposers as part of the evaluation process. Any use of a proposal review committee or interview process shall be stated detailed in the Request for Proposals.

30.190 PERFORMANCE AND PAYMENT SECURITY

A. Public Improvements Contract

Except in emergencies, when the requirement may be waived, or unless the requirement is exempted under these rules, all persons entering into public improvement contracts with the City will be required to provide:

1. A performance bond in a sum equal to the contract price, and

2. A payment bond in a sum equal to the contract price.

3. Proof that a public works bond with a corporate surety in the amount of $30,000 has been filed with the Construction Contractors Board for contracts subject to Prevailing Wage Rate Law. Public improvement contracts of $10,000 or less are exempt from the bond requirements.

B. Other Public Contracts

The City may require performance security for other public contracts. Such requirements shall be stated in the solicitation documents.

C. Contracts Under $10,000

Performance bonds for a contract under $10,000 shall be utilized only in critical circumstances, so as not to discourage competition.

D. Requirement for Surety Bond

A surety bond furnished by a surety company authorized to do business in Oregon is the only acceptable form of performance security unless otherwise specified in the solicitation documents.

E. Time for Submission

Upon request by the City, the apparent successful bidder or proposer must furnish the required performance bond within ten days of contract award. Prompt submittal of the performance bond is required to ensure timely project initiation. Failure to furnish the bond prior to the deadline shall result in rejection of the bid or proposal, forfeiture of bid security, and award to the next lowest
responsible bidder or next highest-scoring proposer.

F. Claims on Payments Bonds

Claims on payment bonds shall comply with ORS 279C.600 to 279C.625 and Section 40.060.

30.195 RIGHT TO AUDIT RECORDS

A. Records Maintenance; Access

Contractors and subcontractors shall maintain all fiscal records relating to public contracts in accordance with generally accepted accounting principles. In addition, contractors and subcontractors shall maintain any other records necessary to clearly document (i) their performance and (ii) any claims arising from or relating to their performance under a public contract. Contractors and subcontractors shall make all records pertaining to their performance and any claims under a public contract accessible to the City at reasonable times and places, regardless whether litigation has been filed as to such claims.

B. Audit of Cost or Pricing Data

The City may, at reasonable times and places, audit the books and records of any person who has submitted cost or pricing data according to the terms of a contract to the extent that such books and records relate to such cost or pricing data. Any person who receives a contract, for which cost or pricing data are required, shall maintain such books and records that relate to such cost or pricing data for three (3) years from the date of final payment under the contract, unless a shorter period is otherwise authorized in writing.

C. Contract Audit

The City shall be entitled to inspect, examine, copy, and audit the books and records of a contractor or any subcontractor under any contract or subcontract to the extent that such books and records relate to the performance of such contract or subcontract. Such books and records shall be maintained by the contractor for a period of three (3) years from the date of final payment under the prime contract and by the subcontract for a period of three (3) years from the date of final payment under the subcontract, or until the conclusion of any audit, controversy or litigation arising out of or related to the contract, whichever date is later, unless a shorter period is otherwise authorized in writing.

30.200 RIGHT TO INSPECT PLANT

A. Time for Inspection

The City may, at reasonable times, inspect the part of the plant or place of business of a contractor or any subcontractor that is related to the performance of any contract awarded.

B. Access to Plant or Place of Business

As a condition of bidding, bidders agree that the City may enter a contractor's or subcontractor's plant or place of business during normal business hours for the following purposes:

1. Inspect and/or test supplies or services for acceptance by the City pursuant to the terms of the bid; or
2. Investigate in connection with a bidder's application, a minority business certification, or bidder disqualification.

C. Contractual Provisions

Contracts may provide that the City may inspect supplies and services at the contractor's or subcontractor's facility and perform tests to determine whether they conform to the bid documents, or, after award, to contract requirements, and are therefore acceptable. Such inspections and tests shall be conducted in accordance with the terms of the contract.

D. Procedures for Trial Use and Testing

The City may establish operational procedures governing the testing and trial use of equipment, materials, and the application of resulting information and data to specifications or procurements.

E. Conduct of Inspections

1. Inspectors

Inspections or tests shall be performed so as not to unduly delay the work of the contractor or subcontractor. No change of any provision of the specifications or the contract may be required by the inspector without written authorization of the City, unless otherwise specified in the solicitation documents. The presence or absence of an inspector shall not relieve the contractor or subcontractor from any requirement of the contract.

2. Location

When an inspection is made in the plant or place of business of a contractor or subcontractor, such contractor or subcontractor shall provide without charge all reasonable facilities and assistance for the safety and convenience of the person performing the inspection or testing.

3. Time of Testing or Inspection

Inspection or testing of supplies and services performed at the plant or place of business of any contractor or subcontractor shall be performed at reasonable times during normal business hours.

F. Inspection of Construction Projects

On-site inspection of construction shall be performed in accordance with the terms of the contract.

30.205 CONTRACT CANCELLATION AND TERMINATION PROCEDURES

A. A contract may be canceled by the City for any violation of the provisions of the contract or for violation of the certification of non-discrimination against minority, women, and emerging small business enterprises or service-disabled veteran owned business.
B. The City may terminate any contract if insufficient funds are appropriated to complete the contract.

C. No cancellation of a public contract shall, unless limited by the terms of the particular contract, restrict or abrogate any other remedy available to the City that is provided either by law or under the particular contract.

D. The City shall provide the contractor written notice of the grounds for cancellation or termination and of its intention to cancel the contract or terminate the contractor’s performance. If the contractor provided a performance and payment bond, the surety shall also be provided with a copy of the notice of contract cancellation or contractor termination. The notice shall include the effective date of the intended cancellation or termination, the grounds for cancellation or termination and notice of the amount of time (if any) in which the City will permit the contractor to correct the failure to perform. The public contract may provide contract cancellation or contractor termination procedures that are different from or in addition to, those provided in this rule.

E. If the contractor has provided a performance and payment bond, the City may afford the contractor's surety the opportunity, upon the surety's receipt of a contractor termination notice, to provide a substitute contractor to complete performance of the contract. Performance by the substitute contractor shall be rendered pursuant to all material provisions of the original contract, including the provisions of the performance and payment bond. Such substitute performance does not involve the award of a new public contract and shall not be subject to competitive procurement requirements.

**PCR 40.000 - PUBLIC IMPROVEMENT CONTRACTS**

**40.010 APPLICATION**

In addition to the requirements set forth in Section 30 of these rules, the following rules apply to public improvement contracts. The requirements in Section 40 are intended to be complementary to those in Section 30, with the rules in Section 40 supplementing the Section 30 requirements, where necessary, to meet the City's needs when administering contracts for public improvements.

**40.015 COMPETITIVE BIDDING**

Except as otherwise specifically permitted by these rules, public improvement contracts shall be awarded by competitive bidding. If the public improvement contract includes design aspects, including value engineering under a CM/GC covered project, the City may award the contract by a competitive proposal process.

**40.020 FIRST TIER SUBCONTRACTOR NOTICE**

If the public improvement contract may be for more than $100,000, the solicitation documents must provide notice that the contractors must disclose first-tier subcontractors who will furnish labor or materials greater than five percent of the total bid or $15,000, whichever is greater, or $350,000 regardless of the percentage of the total bid within two working hours after the deadline for bid submission. The disclosure must state the name of each subcontractor and the category of work the subcontractor will perform.

**40.025 FIRST TIER SUBCONTRACTOR DISCLOSURE**
A. Bidders for public contracts with a value of more than $100,000 must submit a first-tier contractor disclosure sheet within two hours of the deadline for submitting a bid. The disclosure sheet must list all first-tier subcontractors who will furnish labor or materials greater than five percent of the total bid or $15,000, whichever is greater, or $350,000 regardless of the percentage of the total bid. The disclosure must state the name of each subcontractor, the category of work the subcontractor will perform and the dollar value of each subcontract. If no first-tier subcontractor meets the threshold level for disclosure and the bid price is more than $100,000, the disclosure sheet must still be submitted with the information that no subcontractors meet the threshold level for disclosure.

B. Bid and proposals for public improvement contracts with a value of greater than $100,000 for which a first-tier subcontractor disclosure is not submitted within two hours of the submittal deadline shall be considered non-responsive.

C. The closing for submission of bids subject to first-tier subcontractor disclosure shall be on Tuesday, Wednesday or Thursday between 2 and 5 pm.

D. First tier subcontractors may be substituted if only in compliance with ORS 279C.585.

E. The City may require first-tier subcontractor disclosure in any Invitation to Bid, even if disclosure is not otherwise required by statute or these rules.

40.030 BID EVALUATION AND AWARD

A. General

Unless exempted by these rules, a public improvement contract, if awarded, is to be awarded to the lowest, responsive and responsible bidder.

B. Special Requirements

The solicitation documents shall set forth any special requirements and criteria, which will be used to determine the lowest, responsive and responsible bidder. No bid shall be evaluated for any requirement or criterion that is not disclosed in the solicitation documents or City regulation.

C. Bid Evaluation and Award

The evaluation format for competitive bid pricing can be lump sum, unit price, or a combination of the two.

1. Lump sum

   If the bid form includes a lump sum base bid, plus additive or deductive alternates, the total bid price, for the purpose of comparing bids, shall be the total sum computed from adding or deducting alternates, as selected by the City, to the base bid. If the alternates, or if the City has selected no additive or deductive alternates for award, bids shall be compared on the basis of lump sum prices, or lump sum base bid prices, as applicable.

2. Unit Price

   If the bid includes unit prices and extensions for estimated quantities, the total bid price, for
the purpose of comparing bids, will be the total sum computed from multiplying the bidder, with due adjustments being made for additive or deductive alternates, if any, selected for award. Note: In case of a conflict between a unit price and the corresponding extended amount, the unit price shall govern.

3. **Combination Lump Sum and Unit Price**

The City shall select a combination of factors for purposes of bid evaluation and contract award and use the methods described in (a) and (b) to compute and compare bids. Note: In case of a conflict between a unit price and the corresponding extended amount, the unit price shall govern.

D. **Proposal Evaluation and Award**

If a selection method other than competitive bids is authorized by these rules for a public improvement, proposals will be evaluated to determine which proposer offers the best solution to the City in accordance with the evaluation criteria set forth in the solicitation documents and in the City's rules. The solicitation evaluation criteria may include, but are not limited to, cost, quality, relevant experience, service, performance history on other private and public contracts, experience and availability of key personnel, adequacy of equipment and physical plant, financial wherewithal, sources of supply, and references. Evaluation factors need not be precise predictors of actual future costs and performance, but, to the extent possible, such evaluation factors shall:

1. Be reasonable estimates based on information available to the City;
2. Treat all proposals equitably;
3. Recognize that public policy requires acquisitions and public improvements to be accomplished at the least cost.

E. **No assignment or transfer of contract rights**

A contractor shall not assign, sell, or transfer rights, nor delegate responsibilities under a public contract either in whole or in part, without first obtaining the City's prior written consent. Such written consent shall not relieve a contractor of any obligations under a public contract, and any transferee shall be considered the agent of the contractor and bound to abide by all provisions of the public contract. Except in the event of a novation, if the City consents in writing to an assignment, sale, or transfer of the contractor’s rights and responsibilities, the contractor shall remain ultimately liable to the City for complete performance of the public contract as if on such assignment, sale, or transfer had occurred.

40.035 **CONTRACT CANCELLATION PROCEDURES**

A. **Termination Due to Circumstances Beyond the Control of the Contractor**

1. **Reasons for Termination**

The City may, in its sole discretion, by written order or upon written request from the contractor, terminate the contract or a portion thereof if any of the following occur:

a. The contractor is prevented from completing the work for reasons beyond the control
of the City;
b. Completion of the project is beyond the control of the contractor;
c. For any reason considered by the City to be in the public interest (other than a labor dispute or reason of any third party judicial proceeding relating to the work other than a suit or action filed in regards to a labor dispute). These reasons may include, but are not necessarily limited to, non-availability of materials, phenomenon of nature of catastrophic proportions or intensity, executive orders of the President related to national defense, congressional or state acts related to funding;
d. Any third party judicial proceeding relating to the work other than a suit or action filed in regards to a labor dispute;
e. If the circumstances or conditions are such that it is impracticable within a reasonable time to proceed with a substantial portion of the public works;
f. The City does not have funds budgeted or available to complete the contract; or
g. Any other reason allowed as a basis for termination under the contract.

2. Payment When Contract is Terminated

When the contract, or any portion thereof, is terminated before completion of all items of work in the contract, payment will be made for the actual items of work completed under the contract, or by mutual agreement, for items of work partially completed. No claim for loss of anticipated profits will be allowed.

3. Responsibility for Completed Work if Contract Terminated

Termination of the contract or a portion thereof shall not relieve the contractor of responsibility for the work completed, nor shall it relieve the surety of its obligation for any claims arising from the work performed.

B. Termination of Contract for Default

1. Declaration of Default

The City may, after giving the contractor or the surety seven (7) days' written notice and an opportunity to cure deficient performance, terminate the contractor's performance for any reasonable cause, including but not limited to those set forth in subsection 2(a)(1) to (6) of this rule. Upon such termination, the City may immediately take possession of the premises and of all materials, tools and appliances thereon as well as all other materials, whether on the premises or not, on which the contractor has received partial payment. The agency may finish the work by whatever method it may deem expedient.

a. If the contractor should persistently or repeatedly refuse to or fail to supply an adequate number of properly skilled workers or proper materials for the efficient execution of the project; or
b. If the contractor should fail to make prompt payment to subcontractors for material or labor, or persistently disregard laws, ordinances, or the instruction of the City, or otherwise be guilty of a substantial violation of any provision of the contract; or

c. If the Contractor should voluntarily or involuntarily seek protection under the U.S. Bankruptcy Code and its Debtor in Possession or Trustee for the estate fails to assume the contract within a reasonable time; or

d. If the contractor should make a general assignment for the benefit of the contractor's creditors; or

e. If a receiver should be appointed on account of the contractor's insolvency; or

f. If the contractor is otherwise in material breach of any part of the contract.

2. Required Response to Declaration of Default

If the above action is taken, the contractor or the surety shall provide the City with immediate and peaceful possession of all of the materials, tools, and appliances located on the premises, as well as all other materials whether on the premises or not, on which contractor has received any progress payment. Further, the contractor shall not be entitled to receive any further payment until the work is completed. On the completion of the work, determination shall be made by the City of the total amount under the terms of the contract, had the contractor completed the work. If the difference between said total amount and the sum of all amounts previously paid to the contractor, which difference will hereinafter be called the "unpaid balance," exceeds the expense incurred by the City in completing the work, including expense for additional managerial and administrative services, such excess will be paid to the contractor, with the consent of the surety. If, instead, the expense incurred by the City exceeds the unpaid balance, the amount of the excess shall be paid to the City by the contractor or the surety.

3. Expense of Completion

The expense incurred by the City shall be as determined and certified by the City.

4. Substitution of Contractor

As provided in PCR 30.205, termination of the contractor and substitution of another contractor to complete the work does not constitute the award of a new public contract and shall not be subject to the provisions of ORS 279A.015 (5), ORS 279B.050 to ORS 279B.085, or ORS 279C.300 to ORS 279C.470.

5. Refusal to Perform

In addition to and apart from the above-mentioned right of the City to terminate the employment of the contractor, the contract may be canceled by the City for any willful failure or refusal on the part of the contractor to perform faithfully the contract according to
all of its terms and conditions; however, in such event neither the contractor nor the surety shall be relieved from damages or losses suffered by the City on account of the contractor's breach of contract.

6. Remedies are Cumulative

The City may, at its discretion, avail itself of any or all of the above rights or remedies without prejudice or preclude the City from subsequently invoking any other right or remedy set forth above or elsewhere in the contract.

40.040 RETAINAGE

A. Retainage of Five Percent

The City will retain amounts from progress payments so that the total value of all amounts retained will not exceed 5 percent of the value of completed work. If the contract work is 50 percent completed and the work is progressing satisfactorily, the retainage may be reduced on the remaining progress payments. Any reduction or elimination of retainage shall be allowed only upon written application of the contractor, which application shall include written approval of the contractor's surety; except that when the contract work is 97-1/2 percent completed, the City may without application by the contractor, reduce the retained amount to 100 percent of the value of the contract work remaining to be done. If retainage has been reduced or eliminated, the City reserves the right in protecting its interests to reinstate at any time retainage from further progress payments.

B. Alternatives to Cash Retainage

In lieu of cash retainage to be held by the City, the contractor may select one of the following options:

1. Deposit of Securities

The contractor may deposit bonds or securities with the City or in any bank or trust company to be held for the benefit of the City. In such event, the City shall reduce the retainage in an amount equal to the value of the bonds and securities. This reduction in retainage will be made in the progress payments made subsequent to the time the contractor deposits the bonds and securities.

The value of the bonds and securities will be determined periodically by the City and the amount retained on progress payments will be adjusted accordingly. The bonds and securities deposited by the contractor shall be fully assigned to the City or be payable to the City on demand and shall be of a character approved by the Finance Director, including but not limited to the following:

a. Bills, certificates, notes or bonds of the United States.

b. Other obligations of the United States or its agencies.

c. Obligations of any corporation wholly owned by the Federal Government.

e. Time certificates of deposit or savings account passbooks issued by a commercial bank, savings and loan association, or mutual savings bank, duly authorized to do business in Oregon.

f. Corporation bonds rated A or better by a recognized rating service.

g. General obligation bonds of the State of Oregon or any political subdivision thereof.

h. General obligation improvement warrants issued pursuant to ORS 287.502.

i. Irrevocable letters of credit from a bank doing business in Oregon.

At the time the City determines that all requirements for the protection of the City's interest has been fulfilled, all bonds and securities deposited as above provided will be released to the contractor.

2. Deposit in Interest-Bearing Accounts

Upon written request of the contractor, the City shall deposit any amounts withheld as retainage in an interest-bearing account in a bank, savings bank, trust company, or savings association for the benefit of the City. Interest earned on such account shall accrue to the contractor. If the contract price exceeds $500,000 and the contractor elects to have the City deposit cash retainage in an interest-bearing account, or the contractor deposits bonds, securities or other instruments in lieu of cash retainage, the City shall accept the contractors alternative retainage method in lieu of depositing the retainage in an interest-bearing escrow account, subject to the limitations and requirements of ORS 279C.560.

3. The City may, at its discretion, allow the contractor to deposit a surety bond in a form acceptable to the City in lieu of all or a portion of funds retained to be retained. The contractor shall accept like bonds from subcontractors and suppliers when the City allowssurety bonds for retainage.

C. Recovery of Costs

If the City incurs additional costs as a result of the exercise of any of the options for retainage described herein, the City may recover such costs from the contractor by reduction of the final payment. As work on the contract progresses, the City shall, upon request, inform the contractor of all accrued costs.

40.045 PROGRESS PAYMENTS

A. Request for Progress Payments

At a regular time each month, the contractor shall, if required by the contract documents, submit to the City a request for payment based upon an estimate of the amount of work completed and of the value of acceptable material to be incorporated in the completed work which has been delivered and acceptably stored. Upon verification and approval of the City, the sum of these values will be referred to the "value of completed work." With these estimates as a base, a progress payment will be made to the contractor, which shall be equal to the value of completed work, less such amounts
as may have been previously paid, less such other amounts as may be deductible or as may be owing and due to the City for any cause, and less an amount to be retained in protection of the City's interests.

B. Progress Payments Do Not Constitute Acceptance of Work

Progress payments shall not be construed as an acceptance or approval of any part of the work covered thereby, and they shall in no manner relieve the contractor of responsibility for defective workmanship or material.

C. Estimates for Progress Payments

The estimates upon which progress payments are based are not represented to be accurate estimates, and all quantities shown therein are subject to correction in the final estimate. If the contractor uses such estimates as a basis for making payments to subcontractors, this is at the contractor's own risk, and the contractor shall bear all loss that may result.

D. Contractor Certified Payroll Payment Withholding

The City shall withhold 25% of any amount owed to a contractor if the contractor does not file certified payroll records with the City along with any invoice for payment on any project covered by Prevailing Wage Rate Law.

**40.050 FINAL INSPECTION**

A. Notification of Completion

When the contractor determines that all construction work on the project has been completed, the contractor shall so notify the City in writing. The City shall make an inspection of the project and project records within fifteen (15) days of receiving said notice. If, at such inspection, all construction provided for and ordered under the contract is complete and satisfactory to the City, and all certifications, bills, forms, and documents have been submitted properly, such inspection shall constitute the final inspection.

B. Instructions to Complete the Work

If, however, at any inspection, any work in whole or in part is found unsatisfactory, or it is found that all certifications, bills, forms, and documents have not been submitted properly, the City shall within fifteen (15) days provide instructions to the contractor on outstanding requirements to complete the project. At such time as the contractor determines full compliance with, and the execution of such instructions, the contractor shall notify the City in writing. The City shall make another inspection within fifteen (15) days after such notice, and this inspection shall constitute the final inspection provided construction work has been completed satisfactorily.

C. Acknowledgment of Acceptance

Upon satisfactory completion of all work required under the contract, the City shall acknowledge acceptance of the work in writing.
40.055   FINAL ESTIMATE AND FINAL PAYMENT

A. Submission of Final Estimate

As soon as practicable after final inspection of the work under the contract, if unit prices were applicable, the City shall prepare a final estimate of the quantities of the various classes of work performed. Following a determination of the total amount due the contractor and following final acceptance of the work by the City, final payment shall be made to the contractor.

B. Set-off of Prior Payments

All prior partial estimates and payments shall be subject to correction in the final estimate and payment.

C. Retainage

Any retainage help by the City shall be included in and paid to the contractor as part of a contract's final payment.

D. Interest

In accordance with ORS 279C.570 (8), the City shall pay a contractor interest at the rate of 1.5 percent per month on the final payment due to a contractor, with the interest to commence thirty (30) days after the work under the contract has been completed and accepted and shall run until the date when the final payment is paid to the contractor.

40.60   CLAIMS FOR UNPAID LABOR OR SUPPLIES

A. Right of Action

A person claiming to have supplied labor or materials for work on a public improvement contract led by the City for which the person has not been paid by the prime contractor or any subcontractor, has a right of action on the contractor's payment bond. This right arises if the person has not been paid in full and has given written notice of a claim within 120 days of last providing labor or furnishing materials, or within 150 days of providing labor or furnishing materials if the claim is for a required contribution to a fund of any employee benefit plan.

B. Notice of Claim

1. To initiate a claim against the contractor's bond, a person should file a Notice of Claim in the form and manner attached as PCR 40.061 - Exhibit A. Such notice must be given to the contractor and the City.

2. Any notice of claim should include the following information:

   a. Name and address of the claimant;
b. Name of prime contractor;

c. Title of project and contract date;

d. Name of the City;

e. Name of bonding company (may be obtained from City); and

f. Name of contractor or subcontractor to whom labor or material supplied.

C. Response to Notice of Claim

Upon receipt of such Notice of Claim, the City shall:

1. Send an acknowledgment to claimant;

2. Send a copy of the notice to the prime contractor; and

3. File a copy of the Notice with the bonding (surety) company.

D. Referral to Surety Company

If the contract has been completed and all funds disbursed to the prime contractor, all claims shall be referred to the surety company for resolution. The City shall not arrange for second payments directly to subcontractors or suppliers for work already paid for by the City.

E. Discretionary Payment of Claim

If the contract is still in force, the City may pay a valid claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due to the contractor under the contract.

F. Liability of Claim

If the City chooses to make a payment as provided in Subsection E, the contractor or the contractor's surety shall not be relieved from obligation with respect to any unpaid claims.

40.61 EXHIBIT A

To: (insert name of the public body)

NOTICE IS HEREBY GIVEN that the undersigned (insert name of subcontractor or supplier); (corporation, partnership, sole proprietorship etc.) as claimant has a claim for (labor performed by the claimant, materials supplied by the claimant etc.) generally consisting of (brief description) in the sum of $____________ against the payment bond taken from (name of prime contractor) as principal and (name of bonding company if known) as surety for the construction of the (title or description of project). The material or labor was supplied to (name of contractor).
(Insert a brief description of the work concerning which the bond was taken.)

DATED this_____ day of_______ 20____.

By
(claimant’s name)

40.065 PLANNING FOR PUBLIC IMPROVEMENTS

The City will prepare a file with the Commissioner of the Bureau of Labor and Industries a list of planned public improvements at least 30 days before adoption of the City’s budget and otherwise comply with ORS 279C.305.

A. Requirement to file list of planned projects. – The City will prepare and file with the Commissioner of the Bureau of Labor and Industries (BOLI) a list of planned public improvements at least 30 days before adoption of the City’s budget and otherwise comply with ORS 279C.305.

B. Least-cost policy for public improvements. – If the City intends to use its own equipment or personnel to perform construction work on a public improvement, and the estimated value of the construction work exceeds $200,000, the City shall file with BOLI not later than 180 days before construction begins an analysis that shows that the City’s decision conforms to the least cost policy pursuant to ORS 279C.305 (1) and (2)(b).

40.070 PREVAILING WAGE LAWS

Contractors shall comply with all Prevailing Wage Rate Laws (ORS 279C.800 to 279C.870 or the Davis-Bacon Act, 40 U.S. 276a) if applicable.

PCR 50.000 - WAIVER OF SECURITY (BID, PERFORMANCE AND PAYMENT BONDS)

(Also see PCR 30.055)

50.010 BID SECURITY REQUIREMENTS

The City shall require bid security unless an exception under the Public Contracting Code or these rules apply. The City may, in its discretion, waive bid security requirements for contracts other than those for public improvements. In its discretion, the City may accept blanket bid bonds. The City may require proposal security bonds.

50.015 CONTRACTS UNDER $10,000

The City may, in its discretion, waive the bid security and performance bond requirements if the amount of the contract is less than $10,000.

50.020 EMERGING SMALL BUSINESS CONTRACTS UNDER $100,000

A. The City may, in its discretion, waive bid security requirements and performance bond requirements when the public improvement project:
1. Has estimated direct construction costs not exceeding $100,000;

2. Is being undertaken through a program where the bidders are drawn exclusively from a list of certified Emerging Small Businesses maintained by the Advocate of Minority, Women and Emerging Small Business; and

3. The City has been provided funds by the legislature for the purpose of assisting Emerging Small Businesses.

B. The City may waive bid security requirements and/or performance bond requirements under the following conditions:

1. There exists an emerging small business account or like source of funds containing an unexpended and unobligated balance;

2. The City has authority to encumber and make payments from the account; and

3. The City encumbers an amount in the account to cover the total cost of each project wherein the bid security and/or the performance bond is waived.

PCR 60.000 - PROPERTY DISPOSITION

60.010 SURPLUS PERSONAL PROPERTY

A. Personal property owned by the City and under the dollar value of $500 (per item or per lot if all the same equipment) may be disposed of with the approval of any department head or the City Manager. Personal property that exceeds that dollar value may be disposed of only after being declared surplus by the City Manager. The method of disposal will be determined based on condition, value, demand, and/or use.

B. Personal property may be declared surplus by the City Manager or designee if it is scheduled for replacement in an adopted budget or it is no longer necessary to provide City services.

60.015 AUCTION SALES OF PERSONAL PROPERTY

Personal property may be sold at auction if the City determines that an auction will probably result in the best net return for the City. Auctions that are widely publicized, including internet auctions, do not require notice by the City.

60.020 SALES OF PERSONAL PROPERTY

A. When the current market value per item (or by lot if all the same equipment) is estimated to be more than $25,000, the personal property must be offered for competitive bid and be advertised in a newspaper of general circulation in the City. The City at its discretion may choose between sealed written bids or a public auction. If no bids are received or if a determination is made that the market value of the property exceeds the offer of the highest responsible bidder, all bids maybe rejected, and the City may negotiate a sale subject to the following conditions:

1. An appraisal of the market value of the property is obtained and documented, and the negotiated sale price exceeds the market value; or
2. The sale amount exceeds the highest bid received through the bidding or auction process.

B. The City may sell personal property by a negotiated sale if the value of the property is estimated to be less than $25,000 (per item or per lot if all the same equipment) and the City has determined that a sale without competitive bidding will result in at least as much net revenue as would a competitive bidding process. The City shall endeavor to get as many quotes as is reasonable under the circumstances (normally at least three) and shall negotiate to maximize the proceeds for the City.

60.025 LIQUIDATION SALES OF PERSONAL PROPERTY

The City may sell personal property through a commercially recognized third party liquidator if the City has determined that a liquidation sale will result in increased net revenue and the selection of the liquidator was conducted by the competitive request for proposal process under these rules.

60.030 DONATIONS OF PERSONAL PROPERTY

A. The City may transfer personal property, including recyclable or reclaimed materials, without remuneration or only nominal remuneration without competitive bids to the following entities:

1. Another public agency;

2. Any sheltered workshop, work activity center or group care home which operates under contract or agreement with, or grant from, any state or federal agency and which is certified to receive federal surplus property; or

3. Any recognized non-profit activity which is certified to receive federal surplus property.

B. The City may donate or sell, without competitive bids, surplus personal property to recognized private, non-profit social or health service activities, subject to the following conditions:

1. A determination has been made that the property is not needed for other public purposes; and

2. If the property has a current market value of $500 or more (per item or per lot if all the same equipment), the donation or sale shall:
   a. Be approved by the City Manager or designee; and
   b. Be documented by the City to be clearly in the public interest.

C. The City shall maintain a record of all transfers, donations, or sales authorized by sections A and B of this rule.

60.035 TRADE OF PERSONAL PROPERTY

The City may trade personal property owned by the City to other government agencies or to other entities provided the following conditions apply:

A. Trades to other government agencies are exempt from public bidding by PCR 10.010A.1; however, such trades must be approved by the City Manager.
B. Trades of personal property with parties other than government agencies must proceed as follows:

1. The market value of both the item to be traded and the item requested must be documented.

2. The proposal to trade an item for another item must be made available to an adequate number of potential vendors to encourage competition.

3. Such trades must be approved by the City Manager.

60.040 DISPOSAL OF SURPLUS PERSONAL PROPERTY MEETING HAZARDOUS WASTE DEFINITIONS

If personal property has been declared surplus by the City and can be defined as a hazardous material or waste, including electronic material, or e-waste, the City may appropriately recycle or dispose of the property without competitive bids subject to the following conditions:

A. A determination has been made that the property is not needed for other public purposes,

B. If the property has a current market value of $500 or more (per item or per lot if all the same equipment), staff made a good faith effort to locate a seller and documentation of the effort will be made part of the City's files.

70.010 PERSONAL SERVICES CONTRACTS

A. Personal service contracts are not "public contracts" subject to formal competitive process under the Oregon Public Contracting Code. This Section of the PCRs describes a method for distinguishing between personal service contracts and public contracts, particularly service contracts, and provides examples of contracts or classes of contracts which are or are not personal service contracts.

B. The determination whether a contract is a public contract or a personal service contract shall be based on the following:

1. Whether the City has developed or is reasonably able to develop reasonably adequate design and/or performance specifications and whether selecting a contractor on the basis of lowest price and meeting minimum specifications would likely meet the City's needs. If the tasks to be performed can reasonably be performed based solely on compliance with minimum specifications, then the tasks should be performed pursuant to a public contract awarded by a competitive bidding process. Conversely, if the City is reasonably unable to develop adequate design and/or performance specifications but must instead have the assistance of the contractor's training, knowledge, and expertise to develop a scope of work statement and selecting the contractor on the basis of lowest price would be unlikely to meet the City's needs, then the tasks would most appropriately be performed under a personal service contract.

2. Whether selecting the contractor on the basis of qualifications rather than lowest price will result in the City obtaining the best value for its money.
3. A personal service contract is appropriate where the contract is awarded primarily on the basis of the contractor's qualifications, including but not limited to, such criteria as experience, training, knowledge, and expertise, technical skill, creativity, artistic ability, performance history, and demonstrated ability to exercise sound professional judgment. Price will be a secondary criterion for awarding a personal service contract.

4. A personal service contract is not appropriate where price is or should be the primary or a major selection criterion.

C. Personal service contracts may include, but are not limited to, the following:

1. Contracts for services performed as an independent contractor in the professional capacity, including but not limited to the services of an accountant; attorney; architectural or land use planning contractor; physician or dentist; registered professional engineer; appraiser or surveyor; aerial photographer; timber cruiser; broadcaster; or data processing contractor.

2. Contracts for such services as an artist in the performing of fine arts, including but not limited to photographer, filmmaker; painter; weaver; or sculptor.

3. Contracts for services of a specialized creative and research oriented, noncommercial nature.

4. Contracts for educational and human custodial care services.

D. The following are NOT personal service contracts:

1. Contracts, even though in a professional capacity, if predominately for a product, e.g., a contract with a landscape architect to design a garden is for personal services, but a contract to design a garden and supply all the shrubs and trees is predominately a tangible product.

2. A service contract, including a contract with a temporary service or personnel agency, to supply labor which is of a type that can generally be done by any competent worker, e.g., data entry, janitorial, security guard, crowd management, crop spraying, laundry, and landscape maintenance service contracts

3. Contracts for trade related activities considered to be labor and material contracts.

4. Contracts for services of a trade-related activity, to accomplish routine, continuing, and necessary functions, even though a specific license is required to engage in the activity. Examples are repair and/or maintenance of all types of equipment or structures.

70.15 SCREENING AND SELECTION POLICY FOR PERSONAL SERVICES CONTRACTS OTHER THAN ARCHITECTS, ENGINEERS, LAND SURVEYORS, PHOTOGRAMMETRISTS, TRANSPORTATION PLANNERS, OR RELATED SERVICES

It is the City's policy to select as expeditiously as possible the best qualified Contractor available, consistent with financial considerations. The selection procedures in this section shall be used to
select the personal services contractors, except where ORS 279C.110 requires a different procedure. The selection procedures do not apply to the appointment or hiring of City officials and employees, to employment or services contracts with City officials and employees (except if providing services outside the scope of employment or official duties), or to collective bargaining agreements.

A. Formal Selection Procedure

This procedure shall be used for personal service contracts when the total cost of the contract exceeds $150,000. The City may elect to use the Formal Selection Procedure for any personal service contract, regardless of price.

1. Public Notice Announcement

The City shall advertise solicitations for formal personal services contracts consistent with Section 30.035, will make at least one public announcement of its need for personal services or an appropriate trade periodical or newspaper of general circulation. The announcement shall include a description of the proposed project, the scope of the services required, project completion dates, and a description of any special requirements, if present. The announcement shall invite qualified prospective contractors to indicate to the requesting department their interest in performing the services required. The announcement will specify a closing date by which the statement must be received by the appropriate department.

2. Application

The City shall solicit written proposals by a written Request for Proposals or other competitive process approved by the Contracts and Purchasing Manager. Written Request for Proposals shall be solicited substantially similar to the standards set forth in Section 30.025. Prospective contractors must submit a statement which describes their capabilities, credentials, and performance data sufficient to establish their qualification for the project.

3. Evaluation Process: Initial Screening

a. Written Response

The City Department Head or designee shall evaluate proposals for personal services contracts based upon the evaluation criteria described in the written Request for Proposals. The evaluation criteria may be changed only by written addendum to the Request for Proposals. Except where prohibited by law, these rules or by other City procedures, price may be included as one of the evaluation criteria. The qualifications of all applicants responding to the announcement by the closing date and select from among the respondents a minimum of three prospective contractors whose statements evidence the highest level of qualification. Should fewer than three (3) statements be received, then each prospective contractor submitting statements that meet the minimum qualifications will be interviewed. A selection committee assembled by the City will review the written proposals. After meeting the mandatory requirements, if any, proposals will be evaluated on their technical and fee aspects and scored accordingly. The selection committee will choose the Proposer(s) which best meets the City’s needs based upon the evaluation criteria described in the Request for Proposals.
4. **Final Selection Procedure**

   b. **Interviews**

      The City may Department Head or designee may hold interviews with the top scoring Proposer(s). Interviews provide an opportunity to clarify or elaborate on written proposals, but will not provide an opportunity to change any fee amount originally proposed. The selection committee will evaluate the interviews as stated in the as stated in the Request for Proposals, discussions with the finalists selected for initial screening. Applicant capability, experience, and compensation requirements shall determine the department's final selection. The interviews may be in-person or by phone.

   c. **Award of Contracts**

      Following the selection committee’s final determination, the City will issue a Notice of Intent to Award and begin contract negotiations. The City will attempt to reach a final agreement with the highest scoring Proposer. However, the City may, in its sole discretion, terminate negotiations and reject the proposal if it appears agreement cannot be reached. The City may then attempt to reach a final agreement with the second highest scoring Proposer and may continue, in the same manner, with remaining proposers until an agreement is reached.

      The Department Head or designee shall make a recommendation to the Board for award of the contract based on the written materials and the interview evaluation. The designee may be a committee.

B. **Informal Selection Procedure**

   1. This procedure may be used when the estimated fee to the contractor does not exceed $150,000.

   2. The City department may award a contract after seeking will contact a minimum of three (3) prospective contractors to submit proposals, with which it has had previous successful experience or which are known by the department to be qualified to offer the sought-after services. A projected fee will be requested and a selection made by the either by selection committee or solely by the department director Department Head or designee based upon the contractor's capability, experience, project approach, and compensation requirements.

C. **Direct Appointment Procedure**

   1. A qualified contractor may be appointed directly from the City's current list of contractors, another public contracting agency's current list of contractors pursuant to an interagency or intergovernmental agreement entered into in accordance with ORS Chapter 190; or from contractors offering the necessary services that the City reasonably can locate. Direct appointment procedure may be used when:

      a. The contractor's estimated fee does not exceed $20,000; or

      b. When the project consists of work that has been substantially described, planned, or otherwise previously studied or rendered in an earlier departmental contract, provided that the original selection procedure used for the project was a formal procedure and the
contractor's estimated fee does not exceed $10,000,000.

2. A direct appointment shall be competitive to the extent practicable and may be based on the contractor's availability, capabilities, staffing experience, compensation requirements and the project's location.

D. Emergency Appointment Procedure

Nothing in the rule shall be inferred to prohibit or otherwise impede the City's Department Head's or designee's right to make direct contractor appointments when conditions require a prompt action to protect life or property. In such instances, the recommended appointment and a written description of the conditions requiring the use of this appointment procedure shall be submitted by the Department Director or designee to the City Manager or designee for action. The City Manager or designee will determine if an emergency exists, declare the emergency, and when appropriate, approve the appointment.

E. Responsible Parties' Actions

1. Professional Contractors

   Submit qualifications, credentials, and performance data relating to their capabilities to the appropriate division in response to project announcement.

2. Division/Department

   a. Determine that the work on a project requires the services of a contractor.

   b. Announce project as required by this section.

   c. Determine appropriate selection/appointment procedure.

   d. Select contractor/candidates as specified under this rule.

   e. Interview the top candidates and make the final selection.

3. Contracts and Purchasing

   a. Execute contracts and awards to contractors, with the Local Contract Review Board and City Manager's prior approval.

   b. Maintain a file on the selection process, including:

      1. The method and copy of the announcement.

      2. The names of firms/individuals and cost estimates considered.

      3. A justification of need for the contract.

      4. The basis for selection.

      5. The means by which rates were established.
6. How reasonableness of price was determined.

7. A copy of the resulting contract.

3. City Manager
   a. Approves each project’s scope and budget as necessary.
   b. Makes direct and emergency appointments as required.
   c. Approves/disapproves Personal Services Contract and all subsequent amendments unless the amount of the contract requires the Board's approval.

70.16 SCREENING AND SELECTION POLICY FOR ARCHITECTS, ENGINEERS, LAND SURVEYORS, PHOTOGRAMMETRIC MAPPINGSTS, TRANSPORTATION PLANNERS, AND RELATED SERVICES

It is the City's policy to select as expeditiously as possible the best qualified contractor available, consistent with financial considerations. The selection procedures in this section shall be used to select architects, engineers, land surveyors, photogrammetrists, transportation planners, and related services. These selection procedures do not apply to personal service contracts for other professionals (see 70.015), nor do they apply to the appointment or hiring of City officials and employees, to employment or services contracts with City officials and employees (except if providing services outside the scope of employment or official duties), or to collective bargaining agreements.

A. Definitions

1. “Architect” means a person who is registered and holds a valid certificate in the practice of architecture in the State of Oregon, as provided under ORS 671.010 to 671.220, and includes without limitation the terms “architect,” “licensed architect” and “registered architect.”

2. “Engineer” means a person who is registered and holds a valid certificate in the practice of engineering in the State of Oregon, as provided under ORS 672.002 to 672.325, and includes all terms listed in ORS 672.002 (2).

3. “Land surveyor” means a person who is registered and holds a valid certificate in the practice of land surveying in the State of Oregon, as provided under ORS 672.002 to 672.325, and includes all terms listed in ORS 672.002 (5).

4. “Photogrammetric mapping” has the meaning given that term in ORS 672.002.

5. “Photogrammetrist” has the meaning given that term in ORS 672.002.

6. “Related services” means personal services, other than architectural, engineering, photogrammetric mapping, transportation planning or land surveying services, that are related to planning, designing, engineering or overseeing public improvement projects or components of public improvement projects, including but not limited to landscape architectural services, facilities planning services, energy planning services, space planning services, hazardous substances or hazardous waste or toxic substances testing services, cost
estimating services, appraising services, material testing services, mechanical system balancing services, commissioning services, project management services, construction management services and owner’s representation services or land-use planning services.

6.7. “Transportation planning services” means transportation planning services for projects that require compliance with the National Environmental Policy Act, 42 U.S.C. 4321 et seq.

B. Formal Selection Procedure

This procedure shall be used for personal service contracts for when the estimated value of the contract exceeds $250,000. The City may elect to use this Formal Selection Procedure for any personal service contract, regardless of price. The City may elect to limit the pool of vendors eligible to submit proposals to those that are on the City’s Professional Services qualified list.

1. Public Notice Announcement.

The City shall advertise solicitations for selection of Architects, Engineers, Land Surveyors, Photogrammetrists, Transportation Planners, and Related Services consistent with Section 30.035. Notices shall be published no fewer than fourteen (14) calendar days before the closing date set forth in the solicitation document. The City will make at least one public announcement of its need for personal services in an appropriate trade periodical or newspaper of general circulation. The announcement shall include a description of the proposed project, the scope of the services required, project completion dates, a description of any special requirements, if present, and the criteria, in sufficient detail and with points assigned, which will be used to rank the submitted proposals. No form of compensation (proposed cost, hourly rates, number of staff hours, or others) may be used as criteria nor may the City ask proposers to submit any pricing information. The announcement shall invite qualified prospective contractors to indicate to the requesting department their interest in performing the services required and shall specify that compensation requirements shall be submitted only upon successful completion of the qualifications based selection of candidates. The announcement will specify a closing date by which the statement must be received by the appropriate department.

2. Application

The City shall obtain contracts under this Section through Request for Proposals, or requests for qualifications followed by Request for Proposals,

a. Request for Qualifications procedure may be used to evaluate potential contractors and establish a qualified short list to whom the City may issue a Request for Proposals,

1) The RFO shall be solicited substantially similar to the standards set forth in Section 30.025 of this rule and ORS 279C.110. The City cannot request cost proposals or otherwise use pricing policies or other pricing information as part of the RFO. Price proposals or other pricing information can only be asked for during the RFP process, following the establishment of a short list of qualified contractors resulting from the RFO. If the City is selecting a contractor to provide Related Services, pricing policies, pricing proposals or other pricing information, including the number of hours proposed for the services required, expenses, hourly rates and overhead may be asked for.

2) A selection committee assembled by the City will review the RFO responses. After meeting the mandatory requirements, if any, proposals will be evaluated on their

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technical aspects and the City will establish a short list of at least three (3) qualified contractors, if feasible.

3) Except when the RFQ is cancelled, the City shall provide a copy of the subsequent RFP to each contractor on the short list.

b. Request for Proposals may be preceded by an RFQ as described above or solicited alone.

1) The Request for Proposals for the selection of Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services shall be solicited substantially similar to the standards set forth in Section 30.025 of this rule and ORS 279C.110. The RFP may include a specific estimate of costs, or a range of estimated costs but may not ask for pricing proposals from contractors.

2) A selection committee assembled by the City will review the RFP responses according to the evaluation criteria set forth in the RFP. If the RFP has followed an RFQ, the City may include the same members who served on the RFQ selection committee. The three (3) highest ranked prospective contractors shall be identified to participate in the second phase of the RFP process.

3) The three (3) highest ranked prospective contractors from the RFP process described above will be asked to provide price proposals to the City, in which not more than fifteen (15) percent of the overall weight of the evaluation criteria can be assigned.

4) For Related Services the City may issue a Request for Proposals substantially similar to the standards set forth in Section 30.025 of this rule and ORS 279C.110. Pricing policies, pricing proposals or other pricing information, including the number of hours proposed for the services required, expenses, hourly rates and overhead may be included.

3. Interviews

The City may hold interviews with the top scoring Proposer(s) and in the case of Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services the three (3) highest ranked prospective contractors. Interviews provide an opportunity to clarify or elaborate on written proposals, and further clarify the understanding of the proposed work. The selection committee will evaluate the interviews as stated in the Request for Proposals. The interviews may be in person or by phone.

2.4. Final Ranking

The City's selection team (or project team) shall evaluate the qualifications of all applicants responding to the announcement by the closing date. The City may elect to interview the top candidates. If the City elects to do so, points shall be awarded to the interview process as additional criteria. The selection team shall, at the end of interviews (or after reviews if the interview process is not selected), rank the firms on their final score based on the listed criteria. The City shall use this ranking to begin the negotiation process. All firms that submitted a proposal shall receive notice from the City of their rankings.

3.5. Negotiation

a. The City shall enter into negotiations with the top ranked contractor regarding pricing policies and proposals or other pricing information, including the number of hours proposed for the service required, expenses, hourly rates and overhead. The City and the selected contractor shall discuss and refine the scope of services for the project and shall negotiate conditions, including but not limited to, compensation levels and performance schedules, based on the
scope of services. The compensation level paid must be reasonable and fair to the contracting agency as determined solely by the City. Authority to negotiate a contract under this section does not supersede any provision of ORS 279A.140 or 279C.520.

b. If the City and the top ranked firm are unable to come to a negotiated price for the project, the City shall formally terminate negotiations and move to the second ranked firm and begin to negotiate. This process shall continue until the City and a ranked consultant come to an agreed upon price for the work. This negotiated price shall be presented to the Local Contract Review Board for approval. The contract for the work may be executed after approval by the Local Contract Review Board.

C. Informal Selection Procedure for Architects, Engineers, Land Surveyors, Photogrammetrists, Transportation Planners, and Related Services:

This procedure may be used when the estimated value of the required personal services contract exceeds $100,000 but does not exceed $250,000. The City may elect to use this Informal Selection Procedure for any personal service contract under $100,000 if so desired.

1. Application: Informal Request for Proposal

The City shall obtain contracts under this Section through Request for Proposals process.

a. The City shall send the request for proposal to at least five (5) prospective contractors that are available. If fewer than five (5) firms are available, the City shall send to all prospective contractors and put a note in the project file.

b. If for the selection of Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services:

i. The Request for Proposals shall be solicited substantially similar to the standards set forth in Section 30.025 of this rule and ORS 279C.110. No form of compensation shall be submitted with a prospective contractor's proposal.

ii. A selection committee assembled by the City will review, rank and select the three (3) highest ranked responses according to the evaluation criteria set forth in the RFP.

iii. The three (3) highest ranked contractors will be asked to participate in the second phase of the RFP and submit price proposals, in which not more than fifteen (15) percent of the overall weight of the evaluation criteria can be assigned.

iv. The selection committee will evaluate review, rank the three (3) highest ranked contractors from the second phase on qualifications and price.

v. The City shall begin negotiating a contract with the highest ranked contractor.

c. If the City is selecting a contractor to provide Related Services:

i. The Request for Proposals shall be solicited substantially similar to the standards set forth in Section 30.025 of this rule and ORS 279C.110. Pricing policies, pricing proposals or other pricing information, including the number of hours proposed for the services required, expenses, hourly rates and overhead may be included.

ii. A selection committee assembled by the City will review, rank all responses received according to the RFP evaluation criteria, including price.

iii. The City shall begin negotiating a contract with the highest ranked contractor. The City shall send this information request for proposal to at least five (5) firms that have
qualified for the service through the City’s Professional Services qualified roster. If fewer than five (5) firms have qualified, the City shall send to all that have qualified and put a note in the project file. The City shall prepare a formal scope of services for the project. Using this scope of services, the City shall craft and information request for proposals. In addition to the scope of services, this request for proposal shall include a description of the proposed project, project completion dates, a description of any special requirements, if present, and the criteria, in sufficient detail and with points assigned, which will be used to rank the submitted proposals. No form of compensation (proposed cost, hourly rates, number of staff hours, or others) may be used as criteria nor may the City ask proposers to submit any pricing information.

2. Screening and Final Ranking

The City’s selection team (or project team) shall evaluate the qualifications of all applicants responding to the announcement by the closing date. The selection team shall rank the firms on their final score based on the listed criteria. The City shall use this ranking to begin the negotiation process. All firms that submitted a proposal shall receive notice from the City of the rankings.

3. Negotiation

a. The City shall enter into negotiations with the top ranked contractor regarding pricing policies and proposals or other pricing information, including the number of hours proposed for the service required, expenses, hourly rates and overhead. The City and the selected contractor shall discuss and refine the scope of services for the project and shall negotiate conditions, including but not limited to, compensation level, schedule and performance—schedule, based on the scope of services. The compensation level paid must be reasonable and fair to the contracting agency as determined solely by the City. Authority to negotiate a contract under this section does not supersede any provision of ORS 279A.140 or 279C.520.

b. If the City and the top ranked firm are unable to come to a negotiated price for the project, the City shall formally terminate negotiations and move to the second ranked firm and begin to negotiate. This process shall continue until the City and a ranked contractor(s) come to an agreed upon price for the work. This negotiated price shall be presented to the Local Contract Review Board for approval. The contract for the work may be executed after approval by the Local Contract Review Board.

c. The City shall terminate the Informal Selection Procedure and proceed with the Formal Selection Procedure if the scope of the anticipated contract is revised during negotiations so that the estimated fee will exceed $250,000.

D. Direct Appointment Procedure

This procedure may be when the estimated value of the personal services for a qualified architect, engineers, land surveyors, photogrammetrists, transportation planners, or related services does not exceed $100,000.

E. Responsible Parties’ Actions

1. For Architect, Engineer, Land Surveyor, Photogrammetrist, Transportation Planner, or
Related Services contractors will submit to the appropriate division qualifications, credentials, performance data relating to their capabilities and pricing policies and other pricing information, including but not limited to the number of hours proposed, expenses, hourly rates and overhead.

Submit qualifications, credentials, and performance data relating to their capabilities to the appropriate division in response to project announcement. May not include any form of pricing information.

**4.2. Division/Department**

a. Determine that the work on a project requires the services of a contractor.

b. Announce project as required by this section.

c. Determine appropriate selection/appointment procedure.

d. Select contractor/candidates as specified under this rule.

e. Interview the top candidates (if process selected) and make the final selection.

**3. Contracts and Purchasing**

a. Execute contracts and awards to contractors, with the Local Contract Review Board and City Manager's prior approval.

b. Maintain a file on the selection process, including:

1) The method and copy of the announcement.

2) The names of firms/individuals and cost estimates considered.

3) A justification of need for the contract.

4) The basis for selection.

5) The means by which rates were established.

6) How reasonableness of price was determined.

7) A copy of the resulting contract.

**2.3. City Manager**

a. Approves each project's scope and budget as necessary.

b. Makes direct and emergency appointments as required.

c. Approves/disapproves Personal Services Contract and all subsequent amendments unless the amount of the contract requires the Board's approval.
Amendments for additional work on personal service contracts shall be permitted only if the City requests additional work of the same type. Any such amendment may not push the contract past the current year’s project budget. If an additional personal services contract is to be awarded for work related to an existing personal service contract, the total value of the new and old contracts is to be considered in determining the type of selection procedure required. If a contract was originally awarded by the informal selection procedure, amendments that would result in a total contract price of more than $50,000 are not permitted. If a contract was originally awarded by the direct appointment procedure under Section 70.015C.1.a, amendments that would result in a total contract price of more than $10,000 are not permitted.

**PCR 80.000 - EMERGENCY CONTRACTS; SPECIFIC EXEMPTION REQUIREMENTS; BOARD EXCEPTION; PROCEDURES; TEMPORARY EXEMPTIONS**

**80.010 EMERGENCY CONTRACTS**

A. The City Manager or designee may, at the City Manager’s or designee’s discretion, authorize or let public contracts without a formal competitive process if an emergency exists and the emergency consists of circumstances creating a substantial risk of loss, damage, interruption of service, or threat to public health or safety that could not have been reasonably foreseen and requires prompt execution of a contract to remedy the condition.

B. The City Manager or designee must declare the existence of an emergency, which shall authorize the City to enter into an emergency contract with a price under $50,000 and make detailed written findings describing the emergency conditions necessitating prompt execution of the contract. A copy of the findings together with the amount of the contract and the name of the contractor shall be immediately forwarded by the City Manager to the Board, if Board authorization is needed.

C. Any contract awarded under this exemption shall be awarded within sixty (60) days following declaration of the emergency unless an extension is granted.

D. The City may enter into a public contract without a formal competitive process when circumstances that could not reasonably be anticipated, require prompt establishment and performance of the contract in order to preserve public funds, property, or the uninterrupted provision of government services. In exercising its authority under this exemption, the City shall:

1. To the extent reasonable under the circumstances, encourage competition by attempting to make informal solicitations or to obtain informal quotes from potential suppliers of goods or services;

2. Make written findings describing the circumstances that require the prompt performance of the contract and of the harm anticipated to result from failing to establish the contract on an expedited basis; and

3. Record the measures taken under subsection (a) of this section to encourage competition, the amounts of the quotes or proposals obtained, if any, and the reason for selecting the
The City shall not contract pursuant to the exemption in the absence of a substantial risk of loss, damage, or interruption of services that would occur if contract performance awaited the time necessary, given the complexity of the project, to solicit, receive and analyze bids or proposals.

**PCR 90.000 – RECYCLABLE, RECYCLED, AND SUSTAINABLE PURCHASING GUIDELINES**

**90.010 RECYCLED MATERIALS AND PRODUCTS GUIDELINES**

The City shall make a good faith effort to prefer, specify, and purchase recyclable items and materials with recycled content in accordance with ORS 279A.125.

Incentives for recycled materials shall be applied whenever economically feasible.

A preference of 5% shall be applied for materials and supplies manufactured from recycled materials, as provided in PCR 90.015 with the exception of recycled paper and paper products, which receive a higher preference percentage as stated in PCR 90.020.

The bidder or proposer shall indicate in its bid or proposal, the materials it considers subject to the 5% preference. The 5% preference will only apply to the value of that portion of a bid or proposal that offers products containing verifiable recycled contents. The "5% preference" shall be applied by dividing the bid amount for the recycled goods by 1.05 and using the resulting number in calculating the total bid amount.

**90.015 RECYCLED MATERIALS PREFERENCE**

**A.** In order to qualify for a recycled materials preference, bidders and proposers, in their bids and proposals, shall certify the minimum or the exact percentage of recycled product in all materials and supplies offered and both the post-consumer and secondary waste content thereof.

**B.** Bids that contain false information about the percentage of recycled product, post-consumer and secondary waste content, and verifiable recycled content shall be rejected as non-responsive.

**C.** Contracts awarded as a result of a preference under this rule are subject to investigation, including but not limited to, audits, plant visitations, examination of invoices and other documents, etc., as the City deems necessary to confirm that the products supplied contain the percentages of recycled product, post-consumer and secondary waste stated in the bid or proposal.

**D.** Failure to provide products containing the percentages of recycled product, post-consumer and secondary waste stated in the bid may result in:

1. The contractor being required to reimburse the City for the portion of the contract price that is attributable to the preference; and
2. Contract termination; or
3. Both 1 and 2, or such other remedies the City deems appropriate.

**90.020 RECYCLED MATERIALS AND PRODUCTS PURCHASING GUIDELINES**
A. Purchase of Paper Products

The City promotes the use of recycled paper and paper products. Purchase of recycled paper and paper products is preferred even when the cost of the such recycled paper or paper products is up to seven percent (7%) higher than the cost of the same quality paper or paper products containing little or no recycled paper. "Recycled paper" shall be defined as a paper product with not less than fifty percent (50%) of its total weight consisting of secondary waste materials or twenty five percent (25%) of its total weight consisting of post-consumer waste.

1. In the specification and purchase of City high speed copier and small offset press application paper and fine printing paper including book, bond, cover, gum, index, bristols, boards, ledger, and duplicator papers:
   a. The City shall use recycled paper wherever possible if available and compatible with existing printing and copying equipment;
   b. The City shall try to eliminate excessive or unnecessary paper use, including but not limited to over-purchase of paper, over-printing of materials, purchases of too high grade of paper, purchase of paper which is not recyclable; and purchase of virgin paper when recycled paper is available in the same grade;
   c. Procurement specifications for the purchase of new printing and copying equipment shall require the acceptance and operational use of recycled paper and shall be capable of two-sided copying;
   d. The procurement of unbleached, recycled paper is encouraged and the use of bright, hard to bleach colored or otherwise non-recyclable papers shall be discouraged; and
   e. In the specification and purchase of other paper items including corrugated and fiberboard boxes, folding box board and cartons, stationery, envelopes, legal and scratchpads, manifold business forms (including computer paper), toilet tissue, paper towels, facial tissue, paper napkins and industrial wipes, and brown and coarse papers, the City shall actively solicit information from vendors with regard to the availability of other paper products (as listed above) with recycled paper content and promote its use.

B. Purchase of Composted Waste Materials

In the specification and purchase of landscape cover, soil amendment, and fill materials:

1. The City shall eliminate from procurement specifications any exclusions or barriers to the purchase of recycled compost materials except for exclusions based upon plant or human health or safety; and

2. The City shall make every effort to utilize and specify functionally equivalent composted waste products in the place of products manufactured from virgin materials.

C. Purchase of Re-refined Petroleum Products

In the purchase of lubricating oils for vehicles and equipment in the City fleet:
1. The City shall make every reasonable effort to utilize lubricating oils with re-refined oil content unless:
   a. The product does not meet performance specifications recommended by the original equipment manufacturer and related warranties would be voided; and
   b. The product is found to not be economically or technically feasible.

2. The City shall review current procurement specifications in order to eliminate (wherever economically and technically feasible) an exclusion of lubricants refined from recycled waste materials.

D. Purchase of Building Insulation Products

In the specification and purchase of building insulation products:

1. The City shall make every effort to prefer, specify and purchase insulation products manufactured from recovered or recycled materials for maintenance and repair operations, building construction projects and work or projects which are let to private contractors; and

2. A decision not to purchase insulation products with the highest percentage of recovered material content shall be based upon a determination that such products:
   a. Are not available within a reasonable period of time;
   b. Are not available at a reasonable price; and/or
   c. Fail to meet reasonable performance standards set forth in applicable specifications.

E. Purchase of Recyclable Plastic Products

In the specifications and purchase of disposable food service products and bags:

1. The City shall specify and utilize products, which are exclusively recyclable where available and locally marketed. Preference shall be given to products manufactured from materials which are readily recyclable with developed recycling markets and processes; and

F. Recycling/Reuse

The City shall also recycle or reuse materials and supplies of purchases as much as possible. Following is a listing of some basic items which shall be recycled or reused: paper, cardboard, scrapmetal, tires, lubricants, and solvents, lead acid batteries, roadside brush and chipped wood waste, plastic materials, and surplus property.

90.025 SUSTAINABLE OR “GREEN” PURCHASES

It is the policy of the City to procure sustainable, or “green”, products and services whenever it is deemed financially or operationally feasible.
**PUBLIC CONTRACTING RULES - STAFF RECOMMENDED UPDATES**

<table>
<thead>
<tr>
<th>RULE – PCR PAGE</th>
<th>IMPACT OF REVISION</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>10.015</strong> Exemption of Contracts Under Certain Dollar Amounts</td>
<td>Revises this section to update the City’s public contract dollar thresholds by increasing the dollar amount for Intermediate Procurements from $100,000 to $150,000 and clarifying the Public Improvement lower dollar threshold at $5,000 consistent with state law. The public contracting dollar thresholds are revised as follows:</td>
</tr>
<tr>
<td><strong>PCR PAGE – 6</strong></td>
<td></td>
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<tr>
<td><strong>DOLLAR AMOUNT</strong></td>
<td><strong>TYPE</strong></td>
</tr>
<tr>
<td>Under $10k</td>
<td>Small Procurement</td>
</tr>
<tr>
<td>$10k - $150k</td>
<td>Intermediate Procurement</td>
</tr>
<tr>
<td>Over $150k</td>
<td>Formal Procurement</td>
</tr>
<tr>
<td>Under $5k</td>
<td>Public Improvement (small procurement)</td>
</tr>
<tr>
<td>$5k - $100k</td>
<td>Public Improvement (intermediate procurement)</td>
</tr>
<tr>
<td>Over - $100k</td>
<td>Public Improvement (formal procurement)</td>
</tr>
<tr>
<td><strong>10.075</strong> Contract Amendments</td>
<td>This section clarifies when a contract amendment is allowed and gives further flexibility in unforeseen circumstances for small and intermediate public contracts. Puts controls in place for small and intermediate contracts in needing Board approval. No change to the formal contract amendment process. This section update replaces section 10.015 f.</td>
</tr>
<tr>
<td><strong>PCR PAGES – 9 &amp; 10</strong></td>
<td></td>
</tr>
<tr>
<td><strong>10.085 – 10.088</strong> Cooperative Procurement</td>
<td>Update to existing PCR 10.085 and adds three additional sections for Joint, Permissive and Interstate Cooperative Procurements consistent with ORS 279A.205-220. Cooperative Purchasing or “Piggybacking” streamlines the contracting process as it allows for the City to directly enter into a contract with a provider who has formally competed for that contract with another governmental entity. This update provides clarification on the process for each type of Cooperative Procurement.</td>
</tr>
<tr>
<td><strong>PCR Pages 10 - 12</strong></td>
<td></td>
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</tbody>
</table>
## Public Contracting Rules - Staff Recommended Updates

<table>
<thead>
<tr>
<th>Rule – PCR Page</th>
<th>Impact of Revision</th>
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</thead>
<tbody>
<tr>
<td><strong>10.105</strong> Public Improvement Contracts Involving Design or Construction Management</td>
<td>Provides clarification on what is included with a Construction Manager/General Contractor (CM/GC) solicitation, specifically how interviews will be scored, identification of whom will receive any project cost savings and terms and conditions for guaranteed maximum price assumptions. PCR Pages 13 – 15</td>
</tr>
<tr>
<td><strong>10.125</strong> Software and Hardware Maintenance, Licenses, Subscriptions and Upgrades</td>
<td>Update to existing PCR 10.125 bringing this exemption to current industry practices. Currently this exemption only allows for software purchases and with this revision will allow for hardware purchases as well. It also clarifies and limits the types of software and hardware purchases to maintenance, licenses, subscriptions and upgrades either from the City’s existing provider or when only one provider is available. PCR Page 18</td>
</tr>
<tr>
<td><strong>15.010</strong> Price Agreements</td>
<td>Updates section language consistent with state statute. PCR Page 20</td>
</tr>
<tr>
<td><strong>20.030</strong> Brand Name or Equal Specification</td>
<td>Expands on the existing brand name exemption and gets rid of the outdated “Single Manufacturer or Compatible Products” process in PCR 20.020. Conforms with state statute and points to the brand name exemption process as outlined in ORS 279B.215 (1) (b). PCR Pages 20-22</td>
</tr>
<tr>
<td>RULE – PCR PAGE</td>
<td>IMPACT OF REVISION</td>
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</tbody>
</table>
| **25.000**  
Minority Owned, Women Owned, Emerging Small Businesses, and Service-Disabled Veteran Owned Businesses  
**PCR Page 22 & 23** | Brings PCR 25.00 into compliance with state law by adding preference for Service-Disabled Veteran owned businesses. |
| **30.020**  
Eligibility to Bid on Construction Contracts  
**PCR Page – 25** | Adds that contractors must have a current valid landscape contractor license issued by the state if submitting a bid for landscape work as part of a Public Improvement contract consistent with state statute. |
| **30.025**  
Solicitation Documents  
**PCR Page – 25** | Includes reference to ORS 279.055 and 279B.060 as additional clarification. |
| **30.035**  
Public Notice  
**PCR Page – 27** | Revises the City’s Public Notice process to allow for advertisement in trade publications such as the DJC and Portland Tribune, but also allows for flexibility of electronic advertisements if in the City’s best interest to do so. This section also provides consistent notification processes for all types of public notices required by the PCRs and brings the City in compliance with state statute Public Improvement advertisements at $125,000. |
| **30.040**  
Bid or Proposals Preparation  
**PCR Page – 28** | Allows the City to accept bid/proposal responses electronically. |
<table>
<thead>
<tr>
<th>RULE – PCR PAGE</th>
<th>IMPACT OF REVISION</th>
</tr>
</thead>
<tbody>
<tr>
<td>30.055 Bid Security</td>
<td>Revises this section to include a separate bid security threshold for highways, bridges and other transportation projects consistent with state statute.</td>
</tr>
<tr>
<td>PCR Page – 29</td>
<td></td>
</tr>
<tr>
<td>30.065 Addenda to Solicitation Documents</td>
<td>Updates this section to current practices allowing for addenda to be sent electronically to prospective bidders/proposers.</td>
</tr>
<tr>
<td>PCR Page – 30</td>
<td></td>
</tr>
<tr>
<td>30.075 Receipt, Opening, and Recording of Bids and Proposals</td>
<td>Revision allows the City to notify bidders/proposers electronically of bid and proposal results.</td>
</tr>
<tr>
<td>PCR Page – 32 &amp; 33</td>
<td></td>
</tr>
<tr>
<td>30.135 Protest of Award</td>
<td>Clarifies the process in which a vendor can make a protest to contract award, brings this section into compliance with state law.</td>
</tr>
<tr>
<td>PCR Page – 42</td>
<td></td>
</tr>
<tr>
<td>40.040 Retainage</td>
<td>Brings PCRs up to date with 2019 legislative changes to retainage on construction contracts over $500,000, whereas retainage needs to be deposited in an interest-bearing account.</td>
</tr>
<tr>
<td>PCR Page – 61</td>
<td></td>
</tr>
<tr>
<td>Rule – PCR Change</td>
<td>Impact of Revision</td>
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</tr>
<tr>
<td><strong>40.065</strong>&lt;br&gt;Planning for Public Improvements</td>
<td>Revises this section to comply with state statute as the City needs to provide the Bureau of Labor and Industries (BOLI) a list of planned public improvements at least 30 days before the adoption of the City’s budget. In addition, the City is required to perform a least-cost analysis for construction work exceeding $200,000.</td>
</tr>
<tr>
<td><strong>70.15</strong>&lt;br&gt;Screening and Selection Policy for Personal Services Contracts</td>
<td>Revisions to this section include further instruction on personal services solicitation requirements, the Request for Proposals interview process and the City’s determination on how contracts are awarded for through the formal and informal selection process. Updates the Personal Services dollar threshold to $150,000 consistent with the dollar threshold update to Intermediate Procurements in PCR 10.015.</td>
</tr>
<tr>
<td><strong>70.16</strong>&lt;br&gt;Screening and Selection Policy for Architects, Engineers, Land surveyors, Photogrammetric Mapping, Transportation Planners and Related Services</td>
<td>Provides for procedure updates including evaluating costs due to changes in the 2019 legislative session to the Qualifications Based Selection (QBS) process. Substantive changes to contracts for architects, engineers, land surveyors, photogrammetric mapping, and transportation planners includes allowing for the City to ask for pricing proposals from the three highest ranked respondents. Costs can then be evaluated but not more than 15% of the overall weight of the RFP evaluation criteria. The City can then enter into contract negotiations with the highest ranked contractor having knowledge of the project costs.</td>
</tr>
<tr>
<td><strong>80.010</strong>&lt;br&gt;Emergency Contracts</td>
<td>Revises section to allow for operational flexibility by not limiting the exemption to $50,000. Emergency contracts over $100,000 still require Board approval.</td>
</tr>
</tbody>
</table>
ISSUE
In response to Council's discussion about approaches to increase police services valued by the community, staff have compiled this additional information. Throughout 2019, the City Council pursued a goal to "ensure the City's financial stability and sustainability while providing mandated services. Seek ways to fund and increase services valued by the community." Specifically, Strategy 1.3 states an intention to "Pursue a local option levy and/or bond in May 2020." At its December 17 meeting, the Council asked whether there were other approaches or funding sources that could be explored to address achieving this goal.

STAFF RECOMMENDATION / ACTION REQUEST
Council discussion about approaches to achieve this goal and advise staff about desired next steps. The discussion could include investigating funding sources other than a local option levy. Alternatively, Council could opt to continue to pursue the local option levy in May of 2020. Staff have continued with this approach throughout 2019. Council has until late January 2020 to make a referral decision.

To assist in the Council's discussion, attached is a preliminary exploration of other funding sources that cities in Oregon have employed to fund local government services. This list is just a starting point to assist with the Council's question and additional research is needed.

Staff requests guidance for whether there is Council consensus to seek and research other funding options.
Staff also seeks guidance from Council to confirm that increasing patrol services is the highest-priority local government service for focus in achieving the Council goal.

**KEY FACTS AND INFORMATION SUMMARY**

At the December 17 meeting, the Council requested a discussion on whether there were other approaches or funding sources that could be explored that would address achieving this goal for priority services - approaches that did not rely on a local option levy as a funding source. The question was raised whether there were ways to achieve this Council goal with other funding sources than a local option levy.

Tigard has conducted two voter surveys in 2019 to assess support for a local option levy to fund increased police patrol services. The Council received a report of "low and soft" voter support in a recent survey to fund priority public safety services.

**OTHER ALTERNATIVES**

Please see the attached table for alternatives.

**COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS**

Council Goal 1. Strategy 1.3. Ensure the City's financial stability and sustainability while providing mandated services. Seek ways to fund and increase services valued by the community. Pursue a local option levy and/or bond in May 2020.

**DATES OF PREVIOUS COUNCIL CONSIDERATION**

3/26/2019 - Initial Discussion of Potential Local Option Levy and/or Bond
4/23/2019 - Discuss Local Option Levy and Facility Bond Alternatives
6/25/2019 - Receive Presentation on Safe Routes to Schools Infrastructure Projects Levy Proposal
6/25/2019 - Discussion on Timing for the Police Facilities Bond
8/13/2019 - Consider Resolution to Appoint Members to the Levy & Bond Task Force
9/24/2019 - Receive Update on Local Option Levy Planning
11/5/2019 - Receive Update on Local Option Levy Planning
11/12/2019 - Receive Update on Local Option Levy Financials
12/17/2019 - Update Update on Local Option Levy and Report on Community Survey Results

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**Attachments**

Funding options
Funding Alternatives for City of Tigard Service Priorities

The Tigard City Council has identified police patrol services as a priority for investment in the 2019-21 goals and is considering how to fund services that the community values. For police services, response time and staffing data show that about 40% of the time, Tigard patrol districts are at minimum staffing of 3 officers in its 5 patrol districts. Response times for highest-priority calls have remained constant at about 6 minutes. From a public safety perspective, increasing patrol staffing by 8-10 officers would help toward all five patrol districts to be fully staffed a majority of the time, and may reduce response times, increase the community’s perception of safety, and allow for outreach to our most vulnerable populations.

Below, in no particular order, is a menu of possible alternatives that the Council could consider to fund public safety service priorities. In 2016, Tigard’s Budget Committee reviewed a version of these options in an effort to make up structural funding gaps for priority services.

<table>
<thead>
<tr>
<th>Source</th>
<th>Description/ How it Works</th>
<th>Factors to Consider</th>
</tr>
</thead>
<tbody>
<tr>
<td>Local Option Levy</td>
<td>A voter-approved property tax levy for 5-years for a specific purpose</td>
<td>5-year time limit requires voter renewal</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Paid once per year with other property taxes</td>
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<tr>
<td></td>
<td></td>
<td>Revenue not tied to cost of service</td>
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<td></td>
<td></td>
<td>Changes in amount or services requires voter approval</td>
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<tr>
<td></td>
<td></td>
<td>Progressive structure with higher assessed values paying more</td>
</tr>
<tr>
<td>Gross Receipts Tax</td>
<td>A tax paid by businesses based on gross sales receipts</td>
<td>Primary impact on business</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Revenue not tied to cost of service</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Can be approved administratively or by voters</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Does not require public vote, but subject to referral</td>
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<tr>
<td></td>
<td></td>
<td>A version of sales tax</td>
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<tr>
<td></td>
<td></td>
<td>Often passed on by businesses to shoppers/ service users (residents plus daytime population)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Instability due to economic cycles</td>
</tr>
<tr>
<td>Food &amp; Beverage Tax</td>
<td>Tax on sales of certain food &amp; beverages</td>
<td>A specialized form of gross receipts tax</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Paid by those selling prepared food &amp; beverage (grocers, restaurants)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Generally found in communities impacted by tourism</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Does not require public vote, but subject to referral</td>
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<tr>
<td></td>
<td></td>
<td>Examples:</td>
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<tr>
<td></td>
<td></td>
<td>Ashland 5% implemented 1993, referred to voters and approved</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Yachats 5% implemented 2006</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Hood River County 5% rejected by voters May 2019</td>
</tr>
<tr>
<td>Source</td>
<td>Description/ How it Works</td>
<td>Factors to Consider</td>
</tr>
<tr>
<td>------------------------</td>
<td>---------------------------------------------------------------------------------------------------------------------</td>
<td>-----------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Payroll / Income Tax</td>
<td>A tax paid by individuals or businesses on salaries and wages</td>
<td>Local administration structure needs to be researched</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Revenue not tied to cost of service</td>
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<tr>
<td></td>
<td></td>
<td>Does not require public vote, but subject to referral</td>
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<tr>
<td></td>
<td></td>
<td>Examples</td>
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<tr>
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<td></td>
<td>Eugene implemented 2019 ($14/ mo employee, $83/ mo employers, less for minimum wage)</td>
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<tr>
<td></td>
<td></td>
<td>Existing regional payroll tax for transit</td>
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<tr>
<td></td>
<td></td>
<td>Also similar to tax paid on personal income such as levied by State of Oregon</td>
</tr>
<tr>
<td>Business License / Tax</td>
<td>A fee or tax paid by businesses</td>
<td>Tigard implemented 1988, called the Business License Fee</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Tigard fee based on number of employees</td>
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<tr>
<td></td>
<td></td>
<td>Funds the Tigard PD Commercial Crimes Unit</td>
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<tr>
<td></td>
<td></td>
<td>Structure in existing TMC 5.04</td>
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<tr>
<td></td>
<td></td>
<td>Fee set by Master Fees and Charges Schedule</td>
</tr>
<tr>
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<td>Fee can also be a flat fee (Bend) or only on specific business types (Eugene)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>License can be a tax based on net income (Portland)</td>
</tr>
<tr>
<td>Focus general funds,</td>
<td>Fines from traffic cameras at intersections</td>
<td>Concept is that some share of general fund revenues are focused on police services only</td>
</tr>
<tr>
<td>such as photo enforcement program revenue</td>
<td></td>
<td>Photo enforcement program will be active in early 2020</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Revenue limits based on program activity (citations)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Tigard’s revenues are estimates only until program implementation</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Tigard’s current plan is to dedicate this revenue to replacement police facilities (capital instead of operations)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>General fund dollars are the most flexible revenues of all sources</td>
</tr>
<tr>
<td>Cut other General Fund services</td>
<td>Reduce services in Library, Parks, Community Development, and city management</td>
<td>Existing General Fund dollars are redirected from other services to patrol</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Implemented through budget process</td>
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<tr>
<td></td>
<td></td>
<td>Creates difficulties in implementation of performance audit recommendations outside of patrol</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Necessitates discussion of citywide service priorities</td>
</tr>
<tr>
<td>Source</td>
<td>Description/ How it Works</td>
<td>Factors to Consider</td>
</tr>
<tr>
<td>--------</td>
<td>---------------------------</td>
<td>---------------------</td>
</tr>
<tr>
<td>Fee for Services (Such as Public Safety Surcharge on Utility Bill)</td>
<td>Fee for certain services paid monthly as part of the utility bill</td>
<td>Revenue can be directly tied to cost of services Models exist to administer (simple) Examples: (50 cities use this today) Tigard implemented in 2017 (parks &amp; recreation, $5.91/ mo) Gresham implemented in 2012 (police, fire and library, $7.50/ mo, 95% dedicated to public safety) West Linn implemented in 2007 (park maintenance, $15/ mo) Salem considering operating fee (emergency, library, park maintenance, social, and other essential services, $8/ mo) Method upheld as not a property tax by Oregon Supreme Court due to flat fee (rate cannot be tied to property value) Can be approved by Council or voters Subject to referral to voters Implementation timeframe relatively short No time limit requirements Can be adjusted for changes in service levels Potential for utility bill fee/ rate fatigue</td>
</tr>
<tr>
<td>Franchise Fees</td>
<td>Fee on franchised utilities</td>
<td>Tigard levies 5% on all public and private utilities Federal law limits cable to 5% and some telecom to 7%</td>
</tr>
<tr>
<td>Construction Excise Tax (commercial portion)</td>
<td>Half of the Construction Excise Tax on commercial construction is not dedicated by state law</td>
<td>Recently adopted by Tigard City Council Council discussion scheduled for February Due to cyclical nature of commercial development, revenue is highly variable</td>
</tr>
</tbody>
</table>

Funding sources considered but not eligible to fund general-purpose local government services:

- Fuel tax/local gas tax (paid by consumers per gallon of gasoline). Local fuel taxes require a public vote pursuant to ORS 319.950. Constituionally dedicated to “construction, reconstruction, improvement, repair, maintenance, operation and use” of roads.
- Local taxes on the sale or use of motor vehicles are prohibited by ORS 320.490.
- Local taxes on cigarettes are prohibited by ORS 323.030.
- Local liquor taxes are prohibited by ORS 473.190.