



**CITY OF BEAVERTON  
STAFF REPORT**

**TO:** Planning Commission

**REPORT DATE:** September 7, 2016

**HEARING DATE:** September 14, 2016

**STAFF:** Steve Regner, Associate Planner

**SUBJECT:** **TA2016-0005 (2016 Development Code Omnibus Text Amendment)**

**REQUEST:** The City proposes to amend the Beaverton Development Code to correct minor errors in the text, incorporate Code interpretations, and improve clarity of application processes and development standards. The City also proposes changes to make the Code more internally consistent and easier to understand and apply. The update affects all chapters of the Development Code.

**APPLICANT:** City of Beaverton - Planning Division

**APPLICABLE CRITERIA:** Development Code Section 40.85.15.1.C.1-7 (Text Amendment Approval Criteria)

**RECOMMENDATION:** Staff recommend the Planning Commission review the proposal, take public testimony, deliberate on the proposal and make a recommendation to City Council.

**1. Summary of Proposed Text Amendment**

City staff have periodically prepared an omnibus text amendment as a housekeeping measure to make corrections, clarifications and updates to the Development Code text. The last omnibus text amendment was proposed in 2015. Exhibit 1 shows the proposed changes, with Exhibit 1.1 containing an index to the proposed changes, Exhibit 1.2 containing the text of the proposed changes, and Exhibit 1.3 is a clean copy of the proposed changes. The staff explanation for the proposed changes that require further explanation can be found in this report. The purpose of these changes is to correct internal inconsistencies, improve readability, update references to other Code sections or regulatory documents, codify prior Planning Director interpretations, and make the Code consistent with changing state or federal regulations.

Most of these changes are self-explanatory, including the grammar and punctuation corrections and the standardization and correction of Ordinance citations within the Development Code. Staff offer additional findings and explanation for some of the proposed changes below. Section numbers correspond to the section numbers in Exhibit 1.2 which outline the proposed amendments.

**Section 1:** This amendment is a further clarification that Lot Averaging for Land Divisions can only be utilized in the R5, R7, and R10 zones.

**Section 2:** This amendment corrects an improper ORS citation referencing Retail Marijuana Sales.

**Section 3:** Corrects word usage, Principal Use instead of Principle Use.

**Section 4:** Corrects citation of Chapter 10, Facilities Review Committee.

**Section 5:** In 2015, the City adopted regulations for Food Cart Pods. The regulations allowed certain deviations from numerical standards through an Adjustment land use application. This amendment adds this scenario to the Applicability Section of the Adjustment.

**Section 6:** Section 20.20.30 requires that a Planned Unit Development is required in certain scenarios in the Town Center - Multiple Use (TC-MU) and Town Center – High Density Residential (TC-HDR) zone. This amendment adds this scenario as a threshold for the Planned Unit Development land use application.

**Section 7:** This amendment adds text to the Historic Review Applicability Section that explicitly exempts detached structures under 120 square feet in a Historic District from Historic Review. This exemption is already implied in Section 40.35.15.4.A.1. This additional text further clarifies the exemption.

**Section 8:** This amendment clarifies an approval criteria for Demolition of a Landmark, which does not allow the applicant to reject highest bona fide offer for sale and removal of the building. The word ‘removal’ could include partial or total demolition of the building, when full preservation is the intent. The change from ‘removal’ to ‘relocation’ eliminates this opportunity for misinterpretation.

**Section 9:** This amendment is to reorganize the thresholds and approval criteria for the Type 1 and Type 2 Home Occupations. The thresholds are written in a way that includes some approval criteria, inconsistent with the format of the rest of the code. This reorganization shifts some threshold items to approval criteria, but does not modify how Home Occupations can function.

**Section 10:** This amendment provides proper word uses when listing the Parking Determination application scenarios in the Applicability Section, modifying ‘and’ to ‘or’.

**Section 11:** This amendment corrects a citation to the Municipal Code referencing the definition of ‘receptacles’.

**Section 12:** This amendment correctly identifies the decision maker for Text Amendment Applications. While the first evidentiary hearing is in front of the Planning Commission, the City Council is the final decision maker for Text Amendments and all other Type 4 applications.

**Section 13:** Removes formatting error cause by deleted page break.

**Section 14:** The Commercial Timber Harvest land use application was created specifically for three contiguous tax lots in southwest Beaverton. These tax lots have received land use approval for development and removal of the majority of the trees on site. Therefore, this land use application is obsolete and proposed to be removed.

**Section 15:** In 2015, the City adopted regulations for Food Cart Pods. The regulations allowed certain deviations from numerical standards through a Variance land use application. This amendment adds this scenario to the Applicability Section of the Variance.

**Section 16:** This amendment correctly identifies the decision maker for Legislative Zoning Map Amendment applications. While the first evidentiary hearing is in front of the Planning Commission, the City Council is the final decision maker for Legislative Zoning Map Amendments and all other Type 4 applications.

**Section 17:** Approval Criteria 4a and 5 for the Discretionary Annexation Related Zoning Map Amendment application are redundant. This amendment proposes to strike Criteria 4a.

**Section 18:** Corrects code section numbering relating to Community Gardens.

**Section 19:** Note 7 of the Off Street Parking Lot Design Section makes an unclear reference stating “Except where backing occurs into major access then minimum 30 feet.” Staff cannot discern what this note is referencing, nor is there a definition of ‘major access’ where the standard can be applied. Staff has researched prior versions of the code, and found no alternative version of this note where the intention is clearer. Planning and Transportation staff cannot find or recall one instance of this standard being applied in any development project. Therefore, staff recommends removing this note.

**Section 20:** Corrects citation for Residential Lot Sizes within a Planned Unit Development.

**Section 21:** Corrects citation of Intersection Standards for sign placement location of Section 60.40.25 Sign Regulations.

**Section 22:** Corrects citation of Intersection Standards for sign placement location in two places of Section 60.40.30 Sign Regulations.

**Section 23:** Prior Text Amendment created the Corridor Commercial (CC) zone to replace the Office Commercial (OC) zone. In prior code iterations, the maximum sign height in the General Commercial (GC) zone was 15 feet and maximum sign height for the OC zone was eight feet. It appears a scrivener's error at some point resulted in these heights being swapped, and the code now limits signs in the GC zone to eight feet. This amendment will switch the height limits, allowing 15 foot tall signs in the GC zone and eight foot tall signs in the CC zone.

**Section 24:** Corrects citation to Street and Bicycle and Pedestrian Connection Hindrances as it relates to Street, Bicycle, and Pedestrian Connections.

**Section 25:** Corrects tense of word.

**Section 26:** Corrects citation of Intersection Standards for Utility Undergrounding regulations.

**Section 27:** Modifies multiple definitions:

- Creates new definition of Nuisance Tree. References back to existing list of nuisance trees in Section 40.90.10.
- Widens the definition of Parent Parcel to include situations where multiple lots are being developed or divided. Clarifies that all lots included in a development compose the Parent Parcel.
- Removes the definition of a 'Street Plug'. Definition directs reader to 'Reserve Strip'. The term Street Plug is not used anywhere in the Development Code, Engineering Design Manual, or Municipal Code, and therefore seems obsolete.
- Past Text Amendment added the definition of Substantial Increase, in response to Federal Communications Commission rules as they relate to Wireless Communication Facilities. Based on the FCC rules referenced in the staff report, it is clear that the word 'collocation' was left out of the phrase 'Relates to the of any Wireless Communications Facilities'. This section adds in the word 'collocation' to clarify the Substantial Increase definition.
- Changes organization of the definition of 'Surplus Parking'. All other parking related terms are organized as Parking, [Term]. Changing 'Surplus Parking' to 'Parking, Surplus' ensures that all parking terms are grouped together.

## **2. Public Comment**

Public notice was provided consistent with Section 50.50 of the Development Code. As of the date of issuance of the staff report and recommendation there were no written

comments from the public submitted to the record. Staff have also not received any written comments from Metro or Oregon DLCD staff.

### **3. Facts and Findings**

Section 40.85.15.1.C of the Development Code specifies that in order to approve a Text Amendment application, the decision-making authority shall make findings of fact, based on evidence provided by the applicant, that all of the criteria specified in Section 40.85.15.1.C.1-7 are satisfied. The following are the findings of fact for TA2016-0005 (2016 Development Code Omnibus Text Amendment):

#### ***Development Code Approval Criteria***

**1. *The proposal satisfies the threshold requirements for a Text Amendment application.***

Section 40.85.15.1.A specifies that an application for a text amendment shall be required when there is proposed any change to the Development Code, excluding changes to the zoning map. TA2016-0005 proposes to make changes to each chapter in the Development Code, as shown in Exhibit 1.2. Therefore, staff find that approval criterion one has been met.

**2. *All City application fees related to the application under consideration by the decision-making authority have been submitted.***

Policy Number 470.001 of the City's Administrative Policies and Procedures manual states that fees for a City initiated application are not required where the application fee would be paid from the City's General Fund. The Planning Division, which is a General Fund program, initiated the application. Therefore, the payment of an application fee is not required. Staff find that approval criterion two is not applicable.

**3. *The proposed text amendment is consistent with the provisions of the Metro Urban Growth Management Functional Plan.***

Metro's Urban Growth Management Functional Plan (UGMFP) is the document that defines how local governments are to implement the Metro Regional Goals and Objectives. The UGMFP is comprised of the following titles:

- Title 1: Requirements for Housing and Employment Accommodations
- Title 2: Regional Parking Policy (Repealed and moved to Title 4 of the Regional Transportation Functional Plan (RTFP))
- Title 3: Water Quality and Flood Management
- Title 4: Industrial and Other Employment Areas
- Title 5: Neighbor Cities and Rural Reserves
- Title 6: Centers, Corridors, Station Communities and Main Streets

- Title 7: Housing Choice
- Title 8: Compliance Procedures
- Title 9: Performance Measures (Repealed)
- Title 10: Functional Plan Definitions
- Title 11: Planning for New Urban Areas
- Title 12: Protection of Residential Neighborhoods
- Title 13: Nature in Neighborhoods
- Title 14: Urban Growth Boundary

The City is required to bring its land use regulations into conformance with the UGMFP. The Development Code has been amended to incorporate several Policies of the UGMFP. This proposed text amendment does not conflict with the UGMFP.

All proposed changes are basically clarifications or corrections of existing provisions or changes to codify current policy and practice and are not in conflict with the UGMFP.

As part of the City's standard noticing procedures, Metro was sent a copy of the DLCD notice, which contained reference to the summary of the changes, similar to Exhibit 1.1. Metro staff did not provide any comment in response. Therefore, staff find that approval criterion three has been met.

**4. *The proposed text amendment is consistent with the City's Comprehensive Plan.***

As the proposed changes under this Omnibus Proposal do not create any new policies or regulations, staff find that no Comprehensive Plan Policies apply to this proposal. Therefore, staff find that the proposed amendment is consistent with the City's Comprehensive Plan and that approval criterion four has been met.

**5. *The proposed text amendment is consistent with other provisions within the City's Development Code.***

The vast majority of the proposed changes are designed expressly to make the Development Code more internally consistent and to eliminate or reduce conflict between Code passages. The proposed amendments do not create conflicts with other provisions of the Development Code. Therefore, staff find that the approval criterion has been met.

**6. *The proposed amendment is consistent with all applicable City ordinance requirements and regulations.***

Staff has not identified any other applicable City ordinance requirements and regulations that would be affected by the proposed text amendment. Therefore, staff find that approval criterion six has been met.

**7. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.**

Staff have determined that there are no other applications and documents related to the request that will require further City approval. Therefore, staff find that approval criterion seven has been met.

***Other applicable approval criteria***

As a post-acknowledgement amendment to the City's Development Code, the proposed text amendment is subject to ORS 197.175(1), which requires that the City demonstrate that the proposed text amendment be consistent with the relevant Statewide Planning Goals. Staff have determined that the following goals apply:

Goal 1	Goal 2	Goal 6	Goal 9
Goal 10	Goal 11	Goal 12	Goal 13
Goal 14			

*Goal 1 Citizen Involvement To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.*

Staff find that the City has provided adequate notice and opportunity for public involvement for the proposed text amendment and public hearing.

*Goal 2 Land Use Planning To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual basis for such decisions and actions.*

Staff find that the proposed text amendment fits within the established process and framework. Furthermore, the findings contained within this report establish an adequate factual basis for the proposal.

*Goal 6 Air, Water and Land Resources Quality To maintain and improve the quality of air, water and land resources of the state.*

Staff find that the proposal will not have a negative impact on the air, water, or land resources quality of the state.

*Goal 9 Economy of State To diversify and improve the economy of the state*

Staff find that the proposal will not have a negative impact on the economy of the state.

*Goal 10 Housing To provide for the housing needs of the citizens of the state.*

Staff find that the proposal will not negatively impact the ability of the City to meet its share of the housing needs of the citizens of the state.

*Goal 11 Public Facilities and Services To plan and develop a timely, orderly, and efficient arrangement of public facilities and service to serve as a framework for urban and rural development.*

Staff find that the proposal will not impair the City's ability to provide the necessary services.

*Goal 12 Transportation To provide and encourage a safe, convenient and economic transportation system.*

Staff find that the proposal does not, by itself, authorize any additional development and therefore will not have a negative effect on the transportation system of the City or surrounding area. All future development will be reviewed through the existing land use review procedures.

*Goal 13 Energy Conservation To conserve energy.*

Staff find that the proposed changes to the Development Code codify current practices and prior Director's Interpretations and determinations. Therefore, the proposed changes will not change the City's ability to conserve energy or promote energy-efficiency measures.

*Goal 14 Urbanization To provide for an orderly and efficient transition from rural to urban land use.*

Staff find that the proposal only applies to already urbanized land and therefore does not alter the transition from rural to urban land use.

State Land Use Goal Compliance Summary: Therefore, staff find that the proposed text amendment complies with all of the applicable State Planning Goals.

#### **4. Conclusions**

Based on the facts and findings presented, staff conclude that the proposed amendment to the Development Code is consistent with all the text amendment approval criteria of Section 40.85.15.1.C.1-7.

## 5. Staff Recommendation(s)

Staff offers the following recommendation for the conduct of the September 14, 2016 public hearing for TA2016-0005 (2016 Development Code Omnibus Text Amendment):

- A. Conduct the public hearing and receive all public testimony relating to the proposal.
- B. Considering the public testimony and the facts and findings presented in the staff report, deliberate on policy issues and other issues identified by the Commission or the public.
- C. Recommend **APPROVAL** of text amendment application TA2016-0006 (2016 Development Code Omnibus Text Amendment) to the City Council.

## 6. Exhibits

- Exhibit 1.1 Index to Proposed Changes
- Exhibit 1.2 Text of the Proposed Changes
- Exhibit 1.3 Clean Copy of Proposed Changes