STAYTON MUNICIPAL CODE

Updated June 2025

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TITLE 1.

GENERAL PROVISIONS

CHAPTERS

TITLE 1. GENERAL PROVISIONS

CHAPTER 1.01

CODE ADOPTION

SECTIONS

1.01.010 CODE ADOPTION

There is hereby adopted the "Stayton Municipal Code" as published by Book Publishing Company, Seattle, Washington, together with those secondary codes adopted by reference, save and except those portions of the secondary codes as are deleted or modified by the provisions of the "Stayton Municipal Code." (Ord. 671, section 1, 1990)

1.01.020 TITLE, CITATION, REFERENCE

This code shall be known as the "Stayton Municipal Code" and it shall be sufficient to refer to the said code as the "Stayton Municipal Code" in any prosecution for the violation of any provision thereof or in the proceeding at law or equity. It shall be sufficient to designate any ordinance adding to, amending, correcting, or repealing all or any part or portion thereof as an addition to, amendment to, correction, or repeal of the "Stayton Municipal Code" and such references shall apply to that numbered title, chapter, section, or subsection as it appears in the code. (Ord. 671, section 2, 1990)

1.01.030 CODIFICATION AUTHORITY

This code consists of all the regulatory and penal ordinances and certain of the administrative ordinances of the City of Stayton, Oregon. (Ord. 671, section 3, 1990)

TITLE 1. GENERAL PROVISIONS

1.01.040 ORDINANCES PASSED PRIOR TO ADOPTION OF THE CODE

The last ordinance included in this code was Ordinance No. 658, passed 3 January 1989. The following ordinances, passed subsequent to Ordinance No. 658, but prior to adoption of this code, are hereby adopted and made a part of this code: ordinance numbers 659, 660, 662, 663, 665, 666, 667, and 670. (Ord. 671, section 4, 1990)

1.01.050 REFERENCE APPLIES TO ALL AMENDMENTS

Whenever a reference is made to this code as the "Stayton Municipal Code" or to any portion thereof, or to any ordinance of the City of Stayton, Oregon, the reference shall apply to all amendments, corrections, and additions heretofore, now or hereafter made. (Ord. 671, section 5, 1990)

1.01.060 TITLE, CHAPTER, AND SECTION HEADINGS

Title, chapter, and section headings contained herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of any title, chapter, or section hereof. (Ord. 671, section 6, 1990)

1.01.070 REFERENCE TO SPECIFIC ORDINANCES

The provisions of this code shall not in any manner affect matters of record which refer to or are otherwise connected with ordinances which are therein specifically designated by number or otherwise and which are included within the code, but such reference shall be construed to apply to the corresponding provisions contained within this code. (Ord. 671, section 7, 1990)

1.01.080 EFFECT OF CODE ON PAST ACTIONS AND OBLIGATIONS

Neither the adoption of this code nor the repeal or amendment hereby of any ordinance or part or portion of any ordinance of the city shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any license, fee, or penalty at said effective date due and unpaid under such ordinances, nor be construed as affecting any of the provisions of such ordinances relating to the collection of any such license, fee, or penalty, or the penal validity of any bond or cash deposit in lieu thereof required to be posted, filed, or deposited pursuant to any ordinance and all rights and obligations thereunder appertaining shall continue in full force and effect. (Ord. 671, section 8, 1990)

1.01.090 EFFECTIVE DATE

This code shall become effective 1 January 1990. (Ord. 671, section 9, 1990)

TITLE 1. GENERAL PROVISIONS

10.01.100 CONSTITUTIONALITY

If any section, subsection, sentence, clause, or phrase of this code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this code. The Stayton City Council hereby declares that it would have passed this code and section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases had been declared invalid or unconstitutional, and if for any reason this code should be declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect. (Ord. 671, section 10, 1990)

TITLE 1. GENERAL PROVISIONS

CHAPTER 1.04

GENERAL PROVISIONS

SECTIONS

1.04.210 DEFINITIONS: RULES OF CONSTRUCTION

1. The following words and phrases, whenever used in this code, shall be construed as defined in this section unless a different meaning is specifically defined and more particularly directed to the use of such words and phrases:

   A. **CITY** or **TOWN:** Means the City of Stayton, Oregon, or the area within the territorial limits of the City of Stayton, Oregon, and such territory outside the Stayton city limits over which the City of Stayton has jurisdiction or control by virtue of any constitutional or statutory provision.

   B. **COMPUTATION OF TIME:** The time within which an act is to be done is computed by excluding the first day and including the last, unless the last day falls upon a legal holiday as defined in this code.

   C. **COUNCIL:** Means the city council of the City of Stayton. "All its members" or "all councilors" means the total number of councilors holding office.

   D. **COUNTY:** Means the county of Marion.

   E. **DAY:** Means the period of time between any midnight and the midnight following.

   F. **DAYTIME:** is the period of time between sunrise and sunset. "Nighttime" is the period of time between sunset and sunrise.

   G. **LAW:** Denotes applicable federal law, the constitution and statutes of the State of Oregon, the ordinances of the City of Stayton, and, when appropriate, any and all rules and regulations which may be promulgated thereunder.

   H. **MAY:** Is permissive.

J. **MINOR:** Means a person under the age of twenty-one (21) years, unless otherwise stated.

K. **MONTH:** Means a calendar month.

L. **MUST** and **SHALL:** Are each mandatory.

M. **OATH:** Means an affirmation or declaration in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" are equivalent to the words "affirm" and "affirmed."

N. **OFFICIAL TIME:** Whenever certain hours are named in this code, they mean the standard time as set out in ORS 187.110.

O. **OR, AND:** Each word may be substituted for the other if the sense requires it.

P. **ORDINANCE:** Means a law of the city, provided that a temporary or special law, administrative action, order, or directive may be in the form of a resolution.

Q. **ORS:** Means Oregon Revised Statutes.

R. **OWNER:** Applied to a building or land, includes any part owner, joint owner, tenant in common, joint tenant, tenant by the entirety, of the whole, or a part of such building or land.

S. **PERSON:** Includes a natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or the manager, lessee, agent, servant, officer, or employee of any of them.

T. **PERSONAL PROPERTY:** Includes money, goods, chattels, things in action, and evidences of debt.

U. **PRECEDING** and **FOLLOWING:** Means next before and next after, respectively.

V. **PROPERTY:** Includes real and personal property.

W. **REAL PROPERTY:** Includes lands, tenements, and hereditaments.

X. **SHALL** and **MUST:** Each mandatory.

Y. **SIDEWALK:** Means that portion of a street between the curbline and the adjacent property line intended for the use of pedestrians.

Z. **STATE:** Means the State of Oregon.

AA. **STREET:** Includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs, or other public ways in this city which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this stated.

AB. **TENANT** and **OCCUPANT:** Applied to a building or land, include any person who occupies the whole or a part of such building or land, whether alone or with others.

AC. **TITLE OF OFFICE:** Use of the title of any officer, employee, department, board, or commission means that officer, employee, department, board, or commission of the city.

AD. **TO:** Means "to and including" when used in reference to a series of sections of this code or when reference is made to ORS.

AE. **WEEK:** Means seven (7) consecutive days.

AF. **WRITING:** Includes printed, typewritten, mimeographed, or multigraphed material, or any form of recorded message capable of comprehension by ordinary visual means. Whenever any notice, report, statement, or record is required or authorized by this code, it shall be made in writing in the English language, unless it is expressly provided otherwise.

AG. **YEAR:** Means a calendar year.

2. All words and phrases shall be construed and understood according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.

3. When an act is required by an ordinance, the same being such that it may be done as well by an agent as by principal, such requirement shall be construed as to include such acts as performed by an authorized agent. (Ord. 654, section 1, 1988: prior code section 1.010)

1.04.220 GRAMMATICAL INTERPRETATION

The following grammatical rules apply in this code and the ordinances of the city:

1. **GENDER:** The masculine gender includes the feminine and neuter.

2. **NUMBER:** The singular includes the plural and the plural includes the singular.

3. **TENSE:** Words used in the present tense include the past and future tenses, unless manifestly inapplicable.

4. **USE OF WORDS AND PHRASES:** Words and phrases not specifically defined shall be construed according to the context and approved usage of the language. (prior code section 1.011)

1.04.230 CONSTRUCTION OF PROVISIONS

The provisions of the city ordinances and of this code and all proceedings under them are to be construed with a view to effect their objects and to promote justice. (Ord. 654, section 2, 1988: prior code section 1.012)

1.04.240 APPLICABILITY OF STATE LAW

It is unlawful for any person to commit any act or fail to perform any requirement which is prohibited or required by state law, insofar as such laws are applicable to municipal government. (prior code section 1.013)

1.04.250 PROHIBITED ACTS INCLUDE CAUSING OR PERMITTING

Whenever in the ordinances of this city or this code any act or omission is made unlawful, it includes causing, allowing, permitting, aiding, abetting, suffering, or concealing the fact of such act or omission. (prior code section 1.014)

CHAPTER 1.08

CHARTER AMENDMENTS

SECTIONS

1.08.310 GENERAL PROCEDURES

Amendments to the Stayton Charter shall be made pursuant to ORS 221.210, "Charter amendments and other municipal measures; initiative and referendum," any other applicable state law, and the provisions of the Stayton Municipal Code. (Ord. 658, section 1[part], 1989: prior code section 2.170; Ord. 874, section 2, 2004)

CHAPTER 1.12

CITY BOUNDARIES

SECTIONS

1.12.410 OFFICIAL MAP

The official map of the city designates the city limits of the City of Stayton. The Official Comprehensive Plan and Zoning Map, including an up-to-date description of the boundaries, shall be kept by the administrator in his office at the city hall and shall be available for public inspection at any time during the regular office hours of the administrator. (Ord. 654, section 4, 1988: prior code section 1.200)

CHAPTER 1.16

ORDINANCES

SECTIONS

1.16.510 EFFECT OF REPEAL

The repeal of any ordinance does not:

1. Repeal the repealing clause of such ordinance or revive any ordinance which had been previously repealed.

2. Affect a punishment or penalty incurred prior to the repeal, nor a suit, prosecution, or proceeding pending at the time of the repeal for an offense committed under the ordinance, except where such ordinance was repealed because of its determined unconstitutionality. (prior code section 1.020)

CHAPTER 1.20

JURISDICTION

SECTIONS

1.20.610 OFFENSES OUTSIDE CITY LIMITS

Where permitted by Oregon law, an act made unlawful by this code constitutes an offense when committed on any property owned or leased by the city, even though such property is outside the corporate limits of the city. (prior code section 1.540)

CHAPTER 1.24

RIGHT OF ENTRY

SECTIONS

1.24.710 AUTHORITY

Whenever necessary to make an inspection to enforce any portion of this code, or whenever there is reasonable cause to believe there exists an ordinance or code violation in any building or upon any premises within the jurisdiction of the city, any authorized employee of the city may, upon presentation of proper credentials, enter such building or premises at all reasonable times to inspect or to perform any duty imposed upon him by ordinance or this code, provided that the procedures set out in section 1.24.720 of this chapter are complied with in every respect. (prior code section 1.500)

1.24.720 PROCEDURES

Entry onto any premises under section 1.24.710 of this chapter shall proceed in accordance with the following:

1. Entry at any time is permitted when there is actually or reasonably appears to be an emergency situation, or when the consent of the owner or occupant has been otherwise obtained for such entry.

2. Except as provided under subsection 1. of this section, the inspecting city official shall give the owner or occupant, if they can be located after reasonable effort, twenty-four hours' written notice of the authorized official's intention to inspect. The notice transmitted to the owner or occupant shall state that the property owner has the right to refuse entry and that in the event such entry is refused, inspection may be made only upon issuance of a search warrant by a duly authorized magistrate.

3. If the owner or occupant refuses entry after such request has been made, the city official is empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

4. No warrant under subsection 3. of this section shall be issued until an affidavit has been filed with the municipal court showing probable cause for such inspection by stating the purpose and extent of the proposed inspection, citing this section as the basis for such inspection, whether it is an inspection instituted by complaint or other specific or general information concerning any alleged violation. (prior code section 1.405)

CHAPTER 1.28

INITIATIVE AND REFERENDUM

SECTIONS

1.28.810 AUTHORITY

The power of initiative and referendum reserved to the citizens of municipalities by the state constitution shall be exercised in the manner set forth in this chapter. (Ord. 658, section 1[part], 1989: prior code section 2.180)

1.28.820 APPLICABILITY OF STATE LAW

State laws providing for carrying into effect the initiative and referendum in respect to municipal legislation shall be followed in the city in every particular except as provided differently in this chapter. (Ord. 658, section 1[part], 1989: prior code section 2.196)

1.28.830 INITIATIVE PETITION: FORM

The form of a petition for any ordinance, charter, or charter amendment by the initiative shall follow the requirements of state law. (Ord. 658, section 1[part], 1989: prior code section 2.181)

1.28.840 REFERENDUM PETITION: FORM

The form or referendum to the people on any ordinance, resolution, or other measure passed by the council shall be as required by state law. (Ord. 658, section 1 [part], 1989: prior code section 2.182)

1.28.850 PETITION: PROPOSED MEASURE TO BE ATTACHED

A full and correct copy of any measure proposed to be submitted to a vote either by initiative or referendum petition shall be attached to every sheet of petitioners' signatures prior to the signing thereof by any petitioner. (Ord. 658, section 1[part], 1989: prior code section 2.183)

1.28.860 PETITION: AFFIDAVITS

Each and every sheet of every initiative or referendum petition containing signatures shall be verified on its face by the person who circulated such sheet of said petition by affidavit using the form required by state law. (Ord. 658, section 1[part], 1989: prior code section 2.184)

1.28.870 PETITION: SIGNATURE REQUIREMENTS

1. A referendum petition against any ordinance, resolution, or other measure passed by the council shall be signed by at least ten percent (10%) of the qualified electors registered in the city.

2. An initiative petition to propose any ordinance, charter, or charter amendment shall be signed by at least fifteen percent (15%) of the qualified electors registered in the city.

3. The number of qualified electors registered in the city shall be computed on the basis of the total number of votes cast for the office of mayor at the mayoral election most recently preceding the invoking of such initiative or referendum petition.

4. Any person who is a qualified elector registered in the city may sign a petition for the initiative or referendum, and it is unlawful of any person who is not a qualified elector to sign any such petition.

5. It is unlawful for any person to sign any name other than his own to any such petition or knowingly to sign his name more than once to the same petition for any measure to be submitted at the same election.

6. It is unlawful for any person to procure signatures to any petition by fraud or misrepresentation, or falsely to make any affidavit, certification, or written statement required by this chapter.

7. Not more than twenty (20) signatures shall be signed to one sheet of a petition. (Ord. 658, section 1[part], 1989: prior code section 2.186)

1.28.880 INITIATIVE PETITION: FILING

1. Initiative petitions shall be filed with the administrator at least ninety (90) days before the next succeeding general election at which such proposed measure is to be submitted to a vote.

2. The proposed date of such election referenced above shall be on the next available election date, pursuant to ORS 221.230, held not sooner than 90 days after the measure was filed with the City of Stayton. (Ord. 658, section 1 [part], 1989: prior code section 2.187; Ord. 874, section 3, 2004)

1.28.890 REFERENDUM PETITION: FILING

1. Referendum petitions shall be filed with the administrator within thirty (30) days of approval of the measure in question by the mayor, or, if the measure was passed over the mayor's veto, within thirty (30) days after enactment of such measure.

2. Nothing shall be done to carry out the provisions of any ordinance passed over the mayor's veto until the time for filing of such a petition will have the effect of suspending the operation of such measure until the matter is submitted for a vote at the next general election, and the verdict determined and proclaimed as provided in section 1.28.930 of this chapter. (Ord. 658,, section 1[part], 1989: prior code section 2.188)

1.28.900 EXEMPTIONS FROM REFERENDUM POWERS

Measures necessary for the immediate preservation of the peace, health, safety, or general welfare of the city and its inhabitants are not subject to the referendum. In any such emergency measure, there shall be a separate section setting forth the reasons why such measure should become operative immediately, and any such measure shall be approved by the affirmative vote of three-fourths of the members of the council and shall also be approved by the mayor. (Ord. 658, section 1[part], 1989: prior code section 2.l89)

1.28.910 PETITION: CERTIFICATION

1. Upon the filing of any initiative or referendum petition, the city administrator shall, within five (5) days of such filing, compare the signatures of the electors signing the petition with the signatures on file in the voting records of the county clerk, and shall attach to said petition his certificate, substantially as follows:

STATE OF OREGON)
County of Marion)
City of Stayton)

I, _____, City Administrator for the City of Stayton, hereby certify that I have compared the signatures on (number of sheets) sheets of the referendum (initiative) petition attached hereto with the signatures of said electors as they appear on the registration cards, books, and blanks on file in the office of the County Clerk, and based upon such record, I hereby certify that the signatures of (names of signers) are genuine. I further certify that the signatures of (names of signers) numbering (number of signatures not genuine) are not genuine.

City Administrator

Subscribed and sworn before me this ___ day of _____, 19__.

2. Every such certificate is prima facie evidence of the facts stated therein and of the qualifications of the electors whose signatures are certified genuine. The city administrator shall consider and count only those signatures which he is able to certify as genuine.

3. The certification of signatures on petitions may be performed by the county clerk in lieu of the city administrator, provided the certification complies with subsections 1. and 2. of this section and is performed at the request of the city administrator. (Ord. 658, section 1[part], 1989: prior code section 2.190)

1.28.920 BALLOT TITLES AND NUMBERS

1. When any petition for initiative or referendum is filed with the city administrator and the city administrator has certified the sufficiency of the petition and signatures as provided in section 1.28.900 of this chapter, he shall submit to the city attorney a copy of such measure.

2. Within five (5) days the city attorney shall provide and return to the city administrator a ballot title for such measure and a copy to chief petitioner. In making the ballot title, the city attorney shall to the best of his ability give a true and impartial

statement of the purpose of the measure and use such language that the ballot title shall not be argument for or be liable to create prejudice against such measure.

3. Any qualified voter dissatisfied with the ballot title prepared by the city attorney may appeal within five (5) days after the ballot title is returned to the city administrator. Such appeal shall be in writing to the council, asking a different title and stating why the title prepared by the city attorney is improper.

4. At its next regular or special meeting, the council shall afford any person protesting the ballot title a hearing, and shall by resolution either approve the title prepared by the city attorney or shall prescribe another ballot title.

5. Should the next regular or special meeting of the council occur more than three (3) days after the filing of any appeal, the mayor shall call a special council meeting to consider the matter, to be held within five (5) days of the filing of the appeal.

6. The title as approved or prescribed by the council shall be the title placed on the ballot. Such title shall in no case exceed one hundred words and, as far as possible, shall not resemble any other ballot title filed for any measure. (Ord. 658, section 1[part], 1989: prior code section 2.191)

1.28.930 ELECTION NOTICES

1. If any of the measures provided for in this chapter will be voted on at a general primary election, the notice of such election shall, in addition to other required information, give notice of the submission of any pending, proposed, or referred measures, listing the numbers and titles thereof.

2. Whenever any initiative or referendum measure is submitted to the voters at any general election, the notice of such election shall, in addition to other required information, give notice of the submission of any pending, proposed, or referred measures, listing the numbers and titles thereof.

3. Whenever any initiative or referendum measure is submitted to the voters at any general election, the city administrator shall publish such measure in full, together with the ballot title and number, in a newspaper of general circulation within the city for two (2) consecutive publications. Such publications shall not be made less than ten (10) days nor more than thirty (30) days prior to such election. (Ord. 658, section 1[part], 1989: prior code section 2.192)

1.28.940 CANVASS OF VOTERS

In all elections held in conjunction with state and county elections, the state laws governing the filing of returns by the county clerk shall apply. In each special city election, the returns therefore shall be filed with the recorder on or before noon of the day following, and upon receipt of election results the council shall meet and canvass the returns. The results of all elections shall be entered in the record of the proceedings of the council. The entry shall state the total number of votes cast at the election, the votes cast for each person and for and against each proposition, the name of each person elected to office, the office to which he has been elected, and a reference to each measure enacted or approved. Immediately after the canvass is completed, the recorder shall make and sign a certificate of election of each person elected and deliver the certificate so made to him within one (1) day after the canvass. A certificate so made and delivered shall be prima facie evidence of the truth of the statements contained therein. (Ord. 658, section 1[part], 1989: prior code section 2.194)

1.28.950 COUNCIL POWERS RESERVED

Nothing in this chapter prohibits the council from adopting an ordinance and submitting it to the qualified electors registered in the city, by ordinance or resolution, at any special or general election, nor from so submitting any charter or charter amendment. If such submitting ordinance or resolution does not fully prescribe the time, place, and manner of conducting any such election, the provisions of this chapter, insofar as not in conflict with such submitting ordinance or resolution, shall govern. (Ord. 658, section 1[part], 1989: prior code section 2.197)

CHAPTER 1.32

GENERAL PENALTY

SECTIONS

1.32.970 VIOLATION: PENALTY

1. Except as otherwise set out specifically in this code, any person violating any of the provisions or failing to comply with any of the mandatory requirements of this code or city ordinance is guilty of a violation.

2. Except in cases where a different punishment is set out by any city ordinance or this code, any person convicted of a violation under subsection 1. of this section shall be punished by a fine of not more than two hundred fifty dollars ($250.00).

3. If any person has been convicted of a violation under subsection 1. of this section, at any time within two (2) years prior to any prosecution, such second or subsequent violation may be prosecuted as a misdemeanor, punishable by a fine of not more than one thousand dollars ($1,000.00) or by imprisonment not to exceed thirty (30) days, or by both such fine and imprisonment.

4. The remedies provided in this section are cumulative and not exclusive. In addition to the penalties provided above and those specifically set out in particular sections of this code, the city, by and through its authorized personnel, may pursue any remedy provided by law including the institution of injunction, mandamus, abatement, or other appropriate proceeding to prevent, temporarily or permanently enjoin, or abate a code violation. (prior code section 1.500)

1.32.980 EACH ACT A SEPARATE VIOLATION

Whenever in this code an act is prohibited or is made or declared to be unlawful or an offense, or the doing of an act is required, or the failure to do an act is declared to be unlawful or an offense, each day a violation continues constitutes a separate offense, and any person convicted of such offense shall be punished accordingly. (prior code section 1.510)

1.32.990 DEFAULT OF PAYMENT

Any person who is in default of payment of any fine provided in this code or any ordinance of the city may be imprisoned in the municipal jail for a period of one (1) day for each five dollars ($5.00) of such fine to a maximum of thirty (30) days; provided, however, that no person shall be imprisoned under this provision whose failure to pay such fine results solely from his indigence and consequent financial inability to pay such fine. (prior code section 1.520)

TITLE 2. ADMINISTRATION AND PERSONNEL

CHAPTERS

Section 2.64 repealed by Ordinance No. 1063 – July 17, 2023

TITLE 2. ADMINISTRATION AND PERSONNEL

CHAPTER 2.04

CITY COUNCIL

SECTIONS

2.04.010 MEETINGS

1. The regular meetings of the council shall be held on the first and third Mondays of each month at a time designated by the council and set in council policy, in the Community Center, 400 W. Virginia, Stayton, Oregon, or another specified location in the city. If the regular meeting day falls upon a legal holiday, the regular meeting shall be held the following day at a time and place to be determined by the mayor.

2. Special meetings of the city council shall be held when called by the mayor or when three city councilors request that the mayor call a special meeting. Notice of special meetings, including the subject, time, and place of the meeting, shall be given to all councilors then in the city. Public notice of the special meetings shall be given to the news media and interested persons and posted at Stayton City Hall twenty-four (24) hours prior to the meeting. In case of an actual emergency, a special meeting may be called and public notice given three (3) hours prior to the meeting.

3. Meetings which have been recessed may be reconvened at such times as the council may determine (Ord. 757, §1, February 1996)

2.04.020 QUORUM: FILLING OF VACANCIES.

1. Three or more council members are a quorum to conduct business, but two members may meet and compel attendance of absent members as prescribed by council rules. If a quorum is not present, the city administrator shall immediately inform the absent members, except those known to be unavailable for the meeting, that their presence is required to enable the city council to proceed. If the absent member or members do not appear after the notice, the councilors present shall adjourn until a specified time and place or until the next regular meeting. In the absence of the mayor and the council president, the remaining members shall call the meeting to order and elect a presiding officer who shall conduct the meeting. (Ord. 917, January 2010)

2. Office of the mayor or councilor becomes vacant: (a) Upon the incumbent's: (1) Death, (2) Adjudicated incompetence, or (3) Recall from the office. (b) Upon declaration by the council after

the incumbent's: (Failure to qualify for the office within 10 days of the time the term of office is to begin; (2) Absence from the city for 30 days, or from all council meetings within a 60-day period without consent from the council; (3) Ceasing to reside in the city; (4) Ceasing to be a qualified elector under state law; (5) Conviction of a public offense punishable by loss of liberty; (6) Resignation from the office; or (7) Violation of Section 34(d) of the 2010 City of Stayton Charter. (Ord. 917, January 2010)

3. A vacancy in the office of mayor will be filled by a majority of the council. A councilor vacancy will be filled by appointment by the mayor with the consent of the council. The term of office for the appointee runs from appointment until expiration of the term of office of the last person elected to that office. If a disability prevents a council member from attending council meetings or a member is absent from the city, the mayor with the consent of the council may appoint a councilor pro tem. (Ord. 917, January 2010)

2.04.030 COMMITTEES

All standing committees and all special committees to whom references are made shall report on matters referred to such committees to the council as directed. Such report may be oral unless at the time the reference to such committee is made the council directs the report to be in writing. (Ord. 658, section 1[part], 1989: prior code section 2.106)

2.04.040 RULES OF PROCEDURE

The rules of parliamentary law and practice as compiles in Robert's Rules of Order shall govern the council in all cases to which they are applicable (Ord. 658, section 1[part], 1989: prior code section 2.106)

2.04.050 CHECK AUTHORIZATION

1. The city administrator and the city finance director are the authorized signatories on all checks or orders drawn on the treasury of the City of Stayton.

2. In the event of the absence of the city administrator or the city finance director, the mayor is hereby authorized to provide the second signature on all checks or orders drawn on the treasury of the City of Stayton (Ord. 712, § 1, February, 1993)

TITLE 2. ADMINISTRATION AND PERSONNEL

CHAPTER 2.08

CITY ADMINISTRATOR

SECTIONS

2.08.110 OFFICE CREATED

The office of administrator is established as the administrative head of the city government. The administrator is responsible to the mayor and council for the proper administration of city business. The administrator will assist the mayor and council in the development of city policies, and carry out policies set by ordinances and resolutions. (Ord. 658, section 1[part], 1989: prior code section 2.620)(Ord. 780, section 1[part], March 3, 1998) (Ord. 917, January 2010)

2.08.120 APPOINTMENT

The mayor must appoint and may remove the administrator with the consent of the council. The appointment must be made without regard to political considerations and solely on the basis of education and experience relating to local government management. (Ord. 658, section 1[part], 1989: prior code section 2.623) (Ord. 917, January 2010)

2.08.130 POWERS AND DUTIES: GENERALLY

1. The duties of the administrator must be set by ordinance. (Ord. 658, section 1[part], 1989: prior code section 2.625) (Ord. 917, January 2010)

2.08.140 POWERS AND DUTIES: DESIGNATED

The powers and duties of the city administrator are as follows:

1. To act as budget officer for the city, and to prepare the budget including proposals for each department for consideration by the council and budget committee; (Ord. 1070, December 16, 2024)

2. To act as purchasing agent to such limitations as may be from time to time adopted by the council, but in no event shall the administrator bind the city for any nonbudgeted purchase without prior council approval;

3. To act as administrative head and business agent of all departments of the city government, subject to the control and direction of the mayor and council;

4. To prepare and furnish all reports requested by the mayor and council;

5. To see that all ordinances are enforced and that the provisions of all franchises, leases, contracts, permits, and privileges granted by the city are observed;

6. To collect all sums of money due the city, whether by way of fees, liens, assessments, taxes, special assessments, or any other source whatsoever;

7. To supervise the operations of all public works utilities owned and operated by the city and to have general supervision over all city property;

8. To meet with private citizens and interested groups seeking information or bringing complaints and attempt to resolve problems and complaints fairly and to report same to the mayor and council;

9. To devote his entire time to the discharge of official duties, attend all meetings of the council unless excused therefrom by the council or mayor, and shall have the right to take part in all discussions coming before the council, but shall have no vote therein;

10. To have all the duties and powers of the office of city recorder as provided in the city charter and state law. (Ord. 658, section 1[part], 1989: prior code section 2.630)

11. The mayor and councilors may not directly or indirectly attempt to coerce the administrator or a candidate for the office of administrator in the appointment or removal of any city employee, or in administrative decisions regarding city property or contracts. Violation of this prohibition is grounds for removal from office by a majority of the council after a public hearing. In council meetings, councilors may discuss or suggest anything with the administrator relating to city business. (Ord. 917, January 2010)

2.08.150 SUPERVISORY AUTHORITY

1. The administrator has, in exercising general charge, supervision and control over all nonelective city employees and their work with the exception of the municipal judge. (Ord. 780, March 3, 1998).

2. The council may, by motion, resolution, or ordinance, provide rules under which the administrator shall exercise such general supervision. (Ord. 658, section [part], 1989: prior code section 2.635)

2.08.170 COMPENSATION

The salary of the city administrator shall be such sum as shall be from time to time determined by majority council action. (Ord. 658, section 1[part], 1989: prior code section 2.637)

2.08.180 REMOVAL FROM OFFICE OR RESIGNATION

1. The administrator may be removed from office by the mayor with the consent of the majority of the council upon thirty (30) days' written notice setting forth the reasons for removal.

2. The administrator shall also give the council thirty (30) days' written notice of resignation from office. (Ord. 658, section 1[part], 1989: prior code section 2.640)

TITLE 2. ADMINISTRATION AND PERSONNEL

CHAPTER 2.12

CITY ATTORNEY

SECTIONS

2.12.210 APPOINTMENT AND DUTIES

1. There shall be appointed by the mayor and approved by the council one or more attorneys who shall attend all actions, suits, and legal proceedings in which the city may be interested, to advise the council or its members when required on any legal questions that may arise which involve the interests of the city, and to draft ordinances when directed by the council.

2. The city attorney shall also perform such other legal services as may be required by the city charter or may be requested by the council from time to time.

3. The city attorney shall receive for his services an amount agreed upon between himself and the council. (Ord. 658, section 1[part], 1989: prior code section 2.660)

4. The office of city attorney is established as the chief legal officer of the city government. The mayor must appoint and may remove the city attorney with the consent of the council. The city attorney may designate other lawyers to serve as assistant city attorneys or special counsel. (Ord. 917, January 2010)

TITLE 2. ADMINISTRATION AND PERSONNEL

CHAPTER 2.16

POLICE DEPARTMENT

SECTIONS

CHAPTER 2.20

MUNICIPAL COURT

SECTIONS

2.20.010 DEFINITIONS

Unless the context otherwise specifically requires, as used in this Chapter, the following mean:

1. **City Attorney** means the City Municipal Court individual appointed under Chapter 2.12 or that individual's deputy or assistant or a City Prosecutor as designated by the City.

2. **Counsel** means an attorney for a defendant, or an attorney appointed by the Municipal Court to act as a legal advisor to an indigent defendant.

3. **Defendant** means either the person charged with an offense in a proceeding in Municipal Court, or, if the person is represented, that person's counsel.

4. **Judge** means the Municipal Judge or a Municipal Judge pro tempore.

5. **Municipal Court** or **Court** means the Municipal Court of the City of Stayton, or any Judge exercising the power of a judicial officer in the Stayton Municipal Court.

6. **Municipal Judge** means the Municipal Judge holding the appointed office of the City of Stayton.

7. **Offense** means any matter over which the Municipal Court has jurisdiction pursuant to this Municipal Code

2.20.020 MUNICIPAL COURT

The Municipal Court is the judicial tribunal of the City of Stayton and shall exercise jurisdiction over offenses as provided by this Chapter and the laws of the State of Oregon, and over such other matters as provided by this Code. The Municipal Judge is the presiding Judge of the Municipal Court and shall have such judicial authority and such powers as are conferred by this Chapter, the Charter of the City of Stayton, the laws of the State of Oregon and the U.S. Constitution.

2.20.030 JURISDICTION OF MUNICIPAL COURT

The Municipal Court shall have jurisdiction over all offenses made punishable under the ordinances of the City of Stayton; all violations and misdemeanors, as defined by ORS; and all traffic offenses, as defined by ORS that are made punishable under the Oregon Revised Statues, other than felony traffic crimes. The Municipal Court has jurisdiction over every offense created by City's Code. The Court may enforce forfeitures, Injunction Relief, and other penalties created by this Code. The Court may enforce Oregon State statute as permitted by law. The Court may hear and decide Civil hearings as allowed by State Law. The Court also has jurisdiction under state law unless limited by City this Code. This does not preclude the City from sending pertinent cases to the State Circuit Court. The City Council may transfer some or all of the functions of the Municipal Court to a State Court. All proceedings of this Court will conform to state laws governing justices of the peace and justice Courts.

2.20.040 JUDGE: JURISDICTION

The Municipal Judge shall exercise original and exclusive jurisdiction of all crimes, offenses, and violations defined and made punishable by this Code or any other ordinance of the City, and of all

actions brought to recover or enforce forfeitures or penalties defined or authorized by this Code or other ordinances of the City, and all state offenses which may be brought in Municipal Court; and, in addition to the powers granted generally by the charter, the constitution of the state, and state statutes shall be vested with all powers of a justice of the peace in matters civil and criminal.

2.20.050 MEANS TO CARRY JURISDICTION INTO EFFECT; ADOPTION OF SUITABLE PROCESS OR MODE OF PROCEEDING.

When jurisdiction on a matter is conferred on the Municipal Court, all the means to carry such jurisdiction into effect is also given to the Municipal Judge; and in the exercise of such jurisdiction, if the rules of procedure are not specifically identified or made applicable to the Municipal Court under this Chapter, any suitable process or mode of proceeding may be adopted by the Municipal Judge which may appear most conformable to the exercise of such jurisdiction.

2.20.060 QUALIFICATIONS AND APPOINTMENT OF MUNICIPAL JUDGE AND MUNICIPAL JUDGES PRO TEMPORE.

1. The Mayor shall appoint and may remove a Municipal Judge with the consent of the Council. A Municipal Judge will hold Court in the City at such place as the Council directs.

2. The City of Stayton may have a two-year contract with the Municipal Judge. The contract may be renewed for two additional terms after the first, for a total of six years.

3. To be eligible to the position of Municipal Judge or Municipal Judge Pro Tempore, a person must be at least 21 years of age, a citizen of the United States, and an active member in good standing of the Oregon State Bar.

4. Oath of Office. Before entering upon the duties of Municipal Judge or Municipal Judge Pro Tempore, the person must take and subscribe, and submit to the City Recorder, an oath in the following form:

> I, _____, do solemnly swear or affirm that I will support the Constitution of the United States, the Constitution of the State of Oregon, and the Charter, Code, and Ordinances of the City of Stayton, and that I will faithfully and impartially discharge the duties of Judge of the Municipal Court of the City of Stayton, according to the best of my ability.

5. The Municipal Judge may:

   a. Render judgments and impose sanctions on persons and property;

   b. Order the arrest of anyone accused of an offense against the City;

   c. Commit to jail or admit to bail anyone accused of a City offense;

   d. Issue and compel obedience to subpoenas;

   e. Compel witnesses to appear and testify and jurors to serve for trials before the Court;

   f. Penalize Contempt of Court;

   g. Issue processes necessary to enforce judgments and orders of the Court, including injunction relief;

h. Issue search warrants; and

i. Perform other judicial and quasi-judicial functions assigned by ordinance.

j. Authority to Administer Oaths. In addition to such other powers as may be conferred by law, any Judge of the Municipal Court has the power to administer oaths in an action, suit or proceeding pending therein, and in all other cases where it may be necessary in the exercise of its powers or the performance of its duties.

2.20.070 DISQUALIFICATION FOR PREJUDICE.

No Judge of the Municipal Court shall hear or try any action, matter or proceeding if a party thereto, or an attorney appearing therein, moves the Court for a change of Judge on grounds of prejudice. The motion shall be supported by an affidavit stating that the Judge before whom the action, matter or proceeding is pending is prejudiced against the party or attorney, and that the affiant or the client of the affiant cannot, or believes that the affiant or the client of the affiant cannot, have a fair and impartial trial or hearing before the Judge, and that such motion is made in good faith and not for the purpose of delay. The motion shall be filed before, or within five days after, a question of fact arises in the action, matter or proceeding is to be tried or heard, or within ten days after the assignment, appointment and qualification or election and assumption of office of another Judge to preside over such action, matter or proceeding. No party or attorney shall make more than one application in any action, matter or proceeding.

2.20.080 RULES OF PROCEDURE

1. The Municipal Judge may adopt rules necessary for the prompt and orderly conduct of the business of the Municipal Court. Rules adopted by the Municipal Judge pursuant to this section shall be consistent with the provisions of the ORS, and any rules adopted by the Oregon Supreme Court pursuant to ORS.

2. Any rule proposed by the Municipal Judge shall be presented to City Council for adoption by Resolution and if adopted filed with the City Recorder and shall be published upon the City's website.

2.20.090 VIOLATIONS BUREAU; ESTABLISHMENT; AUTHORITY OF VIOLATIONS CLERK.

1. In addition to, and not in lieu of, any authority conferred upon the Municipal Court of the City of Stayton under ORS, the Municipal Judge may establish a Violations Bureau and designate the Clerk or deputy Clerk of the Municipal Court or any other appropriate person to act as a Violations Clerk for the Violations Bureau. The Violations Clerk shall serve under the direction and control of the Municipal Judge.

2. The Municipal Judge shall by order specify the violations that are subject to the authority of the Violations Clerk.

3. Except as otherwise provided in SMC, the Violations Clerk shall accept:

   a. Written appearance, waiver of trial, plea of guilty and payment of fine, costs and assessments for violations that are subject to the authority of the Violations Clerk; and,

   b. Payment of base fine amounts for violations that are within the authority of the

Violations Clerk.

4. The Municipal Judge shall establish schedules, within the limits prescribed by law and upon review and approval of the Stayton City Council, of the amounts of penalties to be imposed for first, second and subsequent violations, designating each violation specifically or by class. The order of the Municipal Judge establishing the schedules shall be prominently posted in the place where penalties established under the schedule are paid and on the City's website. All amounts must be paid to, receipted by and accounted for by the Violations Clerk in the same manner as other payments on money judgments are received by the City of Stayton.

5. Any person charged with a violation within the authority of the Violations Clerk may:

   a. Upon signing an appearance, plea of guilty and waiver of trial, pay the violations Clerk the penalty established for the violation charged, including any costs and assessments authorized by law.

   b. Pay the Violations Clerk the base fine amount established for the violation. Payment of the base fine amount constitutes consent to forfeiture of the base fine amount and disposition of the violation by the Violations Clerk as provided by the rules of the Municipal Court. Payment of the base fine amount is not consent to forfeiture of the base fine amount if the payment is accompanied by a plea of not guilty or a request for hearing.

6. A person who has been found guilty of, or who has signed a plea of guilty or no contest to one or more previous offenses in the preceding 12 months within the jurisdiction of the Municipal Court shall not be permitted to appear before the Violations Clerk unless the Municipal Judge, by general order applying to certain specified offenses, permits such appearance.

7. Referenced in this Chapter, "violation" means any violation, as defined by this SMC and ORS, over which the Municipal Court has jurisdiction

2.20.100 MUNICIPAL COURT DOCKET

The Municipal Court shall maintain a docket, which may be maintained in electronic form. The Clerk of the Court shall enter the following information in the docket:

1. The title of every action or proceeding commenced in the Court, with the names of the parties thereto and the time of commencement thereof.

2. The date of making or filing any pleading.

3. An order allowing a provisional remedy, and the date of issuing and returning the summons or other process.

4. The time when each party appears, or a party's failure to do so.

5. If defendant waived counsel, the fact of such waiver and the basis for the Court's conclusion that such waiver was knowing and voluntary.

6. Every postponement of a trial or proceeding, upon whose application and to what time.

7. The demand for a jury, if any, or the waiver of the right to jury trial, and by whom made.

8. The order for a jury and the time appointed for trial.

9. The return of an order for a jury, the names of the persons impaneled and sworn as a jury and the names of all witnesses sworn and at whose request.

10. The verdict of the jury and when given or, if the jury disagrees and is discharged without giving a verdict, a statement of such disagreement and discharge.

11. The judgment of the Court and when given.

12. The date on which any judgment is docketed in the docket.

13. The fact of an appeal having been made and allowed, and the date thereof, with a memorandum of the undertaking, and the justification of the sureties.

14. Satisfaction of the judgment or any part thereof.

15. A memorandum of all orders relating to security release.

16. All other matters that may be material or specially required by the SMC or any statute.

2.20.110 CRIMINAL PROCEDURE STATUTES TO GOVERN GENERALLY.

1. Except as otherwise specifically provided in ORS, this Chapter, and the criminal procedure statutes of the State of Oregon, a violation proceeding in Municipal Court shall be commenced and shall proceed to final determination, and the judgment therein shall be enforced, in the manner provided in ORS and this Chapter.

2. Except as specifically provided in this Chapter, a misdemeanor proceeding in Municipal Court shall be commenced and shall proceed to final determination, and the judgment therein shall be enforced, in the manner provided in the criminal procedure statutes of the State of Oregon.

3. Notwithstanding subsection (1) and (2) of this section, the procedures described in this section shall not apply to violations that govern the parking of vehicles and that are created by ordinance or administrative rule, and the Municipal Judge shall adopt rules for the conduct of such proceedings.

2.20.120 APPLICABILITY OF STATE LAWS

Except as otherwise provided by City Charter, ordinance, or SMC, proceedings in the Municipal Court for the violations designated by SMC, State statute, or ordinance shall be governed by the applicable general laws of the state governing justices of the peace and justice Courts.

2.20.130 RIGHT TO TRIAL BY JURY

1. In all prosecutions for any crime or offense defined and made punishable by any jail term or by the Charter or by any City ordinance or by the SMC, and tried before the Municipal Judge, the defendant is entitled to be tried by a jury, if the defendant requests a jury in accordance with applicable Court rules.

2. The Court shall advise the defendant of the right to trial by jury at the time of arraignment and shall ask whether the defendant wishes to waive the right. The defendant may elect to waive trial by jury and agree to a trial by a Judge alone, provided the election is in writing and has been approved by the Judge as a knowing and voluntary waiver.

3. The jury shall consist of six persons selected in the manner prescribed in this Chapter. The verdict of the jury shall be unanimous, and shall be in writing, and signed by the foreperson.

2.20.140 RIGHT TO COUNSEL

1. Any person charged in the Municipal Court with an offense for which a sentence of imprisonment may be imposed have the right to counsel.

2. If the defendant appears for arraignment without counsel, the defendant shall be informed by the Court that the defendant has a right to have counsel before being arraigned and shall be asked if the defendant desires the aid of counsel.

3. If the defendant indicates a desire to obtain counsel, the Court shall allow the defendant a reasonable time and opportunity to obtain counsel. If the defendant wishes to waive counsel, the Court shall determine whether the defendant has made a knowing and voluntary waiver of counsel. If the Court determines the defendant has made a knowing and voluntary waiver of counsel, such fact shall be noted on the Municipal Court docket for the matter.

2.20.150 COURT-APPOINTED COUNSEL

1. Suitable counsel for a defendant shall be appointed by the Municipal Court if:

   a. The defendant has been charged with an offense for which a sentence of imprisonment may be imposed or is before the Court in any proceeding concerning an order of probation where a sentence of imprisonment may be imposed, including, but not limited to, revoking or amending the order of probation; and,

   b. The defendant requests aid of counsel; and,

   c. The defendant provides the Court with a written and verified financial statement; and,

   d. It appears to the Court that the defendant is financially unable to retain adequate representation without substantial hardship in providing basic economic necessities to the defendant or the defendant's dependent family. In making such determination, the Court may question the defendant, under oath, regarding the defendant's verified financial statement and any matter bearing upon the defendant's inability to pay for counsel.

2. Appointed counsel may not be denied to any defendant merely because the defendant's friends or relatives have resources adequate to retain counsel or because the defendant has deposited or is capable of depositing security for release. However, appointed counsel may be denied to a defendant if the defendant's spouse has adequate resources which the Court determines should be made available to retain counsel.

3. The defendant's financial statement under subsection (a) of this section shall include, but not be limited to:

   a. A list of bank accounts in the name of defendant or defendant's spouse, and the

balance in each;

b. A list of defendant's interests in real property and those of defendant's spouse;

c. A list of vehicles and other personal property of significant value belonging to defendant or defendant's spouse;

d. A list of debts in the name of defendant or defendant's spouse, and the total of each; and,

e. A record of earnings and other sources of income in the name of defendant or defendant's spouse, and the total of each.

4. Unless otherwise ordered by the Court, the appointment of counsel shall continue during all criminal proceedings resulting from defendant's arrest through acquittal or the imposition of punishment. The Court may not substitute one appointed counsel for another, except pursuant to the policies, procedures, standards and guidelines adopted by the Public Defense Services Commission under ORS.

5. If, at any time after counsel has been appointed, the Court finds that the defendant is financially able to pay, or to make partial payment, for counsel, the Court may terminate the appointment of counsel and require payment or partial payment for counsel and order the defendant to pay the City such amounts as the City has paid for assistance of counsel to the person. If, at any time during the criminal proceedings, the Court finds that the defendant is financially unable to pay counsel whom the defendant has retained, that Court may appoint counsel as provided herein.

6. In addition to any criminal prosecution, a civil proceeding may be initiated by the City Attorney or City Prosecutor within two years of judgment if the City has expended moneys for the defendant's legal assistance and the defendant was not qualified for legal assistance in accordance with this section. Any such civil proceeding shall be subject to the exemptions from execution as provided by Oregon law.

2.20.160 COMPENSATION AND EXPENSES OF APPOINTED COUNSEL

1. Counsel appointed pursuant to this Chapter shall be paid fair compensation by the City for representation in the case.

2. Compensation payable to appointed counsel under subsection (1) of this section may not be less than $50 per hour.

3. A person determined to be eligible for appointed counsel is entitled to necessary and reasonable fees and expenses for investigation, preparation and presentation of the case for trial, negotiation and sentencing.

4. Non-Routine Fees; Preauthorization.

a. The defendant or the counsel for that person shall upon written request secure preauthorization to incur fees and expenses that are not routine to representation but are necessary and reasonable in the investigation, preparation and presentation of the case, including but not limited to non-routine travel, photocopying or other reproduction of non-routine documents, necessary costs associated with obtaining the attendance of witnesses for the defense, investigator fees and expenses, expert witness fees and expenses and fees for

interpreters and assistive communication devices necessary for the purpose of communication between counsel and a defendant or witness in the case.

b. The request must be in the form of a motion to the Court. The motion must be accompanied by a supporting affidavit that sets out in detail the purpose of the requested expenditure, the name of the service provider or other recipient of the funds, the dollar amount of the requested expenditure that may not be exceeded without additional authorization and the date or dates during which the service will be rendered or events will occur for which the expenditure is requested.

c. Entitlement to payment of non-routine fees and expenses is dependent upon obtaining preauthorization from the Court. Preauthorization to incur a fee or expense does not guarantee that a fee or expense incurred pursuant to the preauthorization will be determined to be necessary or reasonable when the fee or expense is submitted for payment.

5. Review by Court; Certification; Payment

a. Upon completion of all services, the appointed counsel shall submit to the Court a statement of all necessary and reasonable fees and expenses of investigation, preparation and presentation and legal representation, supported by appropriate receipts or vouchers and certified by the appointed counsel to be true and accurate.

b. The total fees, expenses and verification submitted by appointed counsel are subject to the review of the Court. The Court shall determine whether the amount submitted is necessary and reasonable reimbursement for fees and expenses for representation in the case. After such review and determination, the Court shall certify to the Finance Director the amount that the Court determines was necessary and reasonable and that the amount is properly payable out of public funds. Upon the receipt of such certification, the amount of the fees and expenses certified by the Court shall be paid to the appointed counsel by the City.

2.20.170 QUALIFICATIONS OF JURORS.

To act as a juror in Municipal Court, the person shall:

1. Qualify to serve as a juror in a Circuit Court proceeding as prescribed in ORS, and must have been a resident of the City of Stayton for not less than three months preceding the date the person is summoned for jury service.

2. No Mayor, Council member, City officer, or City employee shall be allowed to serve as a juror while in office or employed.

2.20.180 MASTER JURY LIST; TIME AND MANNER OF PREPARATION; TERM OF PROSPECTIVE JURORS.

1. The City Administrator shall, at least once a year, make a list containing the names of not less than 50 nor more than 250 persons by selecting names by lot from the voter registration list used at the last preceding general City election. Said list shall be known as a "Master Jury List."

2. The City Administrator shall then delete from the Master Jury list the names of those persons known not to be qualified by law to serve as jurors, and the remaining names shall constitute

the Master Jury List.

3. The names of those persons deleted from the Master Jury List shall be placed on a separate list known as rejected prospective jurors, and opposite each name the reason for removing the name shall be stated.

4. The Master Jury List shall be placed on public record in the City Administrator's office within ten (10) days from the time it is prepared.

5. The Master Jury list shall be prepared and certified once each year prior to the last day of January, unless circumstances make such preparation not feasible, in which case the Master Jury List shall be prepared as soon thereafter as possible. The jury service term shall be the period of time between the filing of the Certification of Master Jury List and the date of the next such filing.

6. Any person whose name is selected for the Master Jury List shall be subject to service as a juror from the effective date of the List until the effective date of next term's Master Jury List, even though the date set for trial may be after certification of the next term's Master Jury List.

7. When the Master Jury List is complete, and the Municipal Judge is satisfied that there are no persons thereon who the Municipal Judge knows to be incompetent to serve as jurors, the Municipal Judge shall certify that Master Jury List in substantially the following form:

> I, (name of Municipal Judge), certify that I am the duly appointed and acting Municipal Judge of the City of Stayton, Oregon; and that the foregoing Master Jury List is composed of the names of persons selected in accordance with the provisions of the Stayton Municipal Code. DATED this day of , 20__.

8. Upon certification of the Master Jury List, the Municipal Judge shall cause the same to be filed in the records of the Municipal Court, at which time, the List shall become effective.

2.20.130 SELECTION OF ADDITIONAL NAMES FOR MASTER JURY LIST.

1. The Municipal Judge may, at any time in the Municipal Judge’s discretion, and shall, whenever the number of the names on the Master Jury List falls below 50, cause the names of additional persons to be selected as a supplement to the Master Jury List. The additional names shall be selected using the same source Lists and in the same manner as the Master Jury List.

2. Upon selection of additional names as provided in subsection (1) of this section, the Municipal Judge shall certify the supplement to the Master Jury List of those additional names and file the List in the Municipal Court records. From the date of such filing, the jurors may be chosen to serve during the jury service term of the Master Jury List.

2.20.200 SELECTION OF JURY PANEL AND SIX PERSON TRIAL JURY

1. If trial by jury has not been waived, the Clerk of the Court shall generate by means of electronic equipment or other random selection method, a Preliminary Jury List of not less than twelve persons from the Master Jury List, who shall comprise the jury panel for a particular date.

2. The jury shall consist of six persons. An alternate may be chosen if the Judge deems it appropriate.

2.20.210 JUROR QUESTIONNAIRE; ELIGIBILITY TO SERVE AS JUROR; DISCHARGE FROM JURY SERVICE

1. A person whose name is included on the preliminary jury List shall be notified that they have been selected for jury service. Before or at the time a person is scheduled to appear for jury service, a Judge or the Clerk of the Court shall question the person as to the person's competency to act as a juror. If a Judge or Clerk of the Court determines that a person so questioned is incompetent to act as a juror, the person shall be discharged from jury service.

2. A person may be questioned about the person's competency to act as a juror either in person or by mail.

    a. To question a person "in person" about the person's competency to act as a juror, a Judge or the Clerk of the Court shall first require the person to declare by oath or the affirmation that the answers to the questions about the person's competency to act as juror shall be truthful.

    b. To question a person by mail about the person's competency to act as a juror, the Judge may cause to be mailed or delivered, with or without a juror's summons, a juror questionnaire along with instructions for completion of the questionnaire and return of the completed questionnaire by mail or personal delivery to the Clerk of the Court. A completed juror questionnaire shall contain the questioned person's signed declaration that the responses to the questions on the form are true to the best of the person's knowledge. Notarization of a completed questionnaire shall not be required.

    c. Copies of completed questionnaires shall be provided to counsel at the time of trial. The specific address of the juror shall be redacted from the questionnaire before distribution, but sufficient information shall be provided to allow counsel to identify the area of the City where the juror resides.

3. A person who knowingly makes a false statement of material fact in response to a question regarding the person's competency to serve as a juror may be punished for contempt.

4. If a person fails to return a properly completed juror questionnaire as instructed, the Municipal Judge may direct the person to appear forthwith and properly complete a questionnaire. If the person fails to appear as directed, the Municipal Judge may order the person to appear and show cause for that failure. If the person fails to appear pursuant to the order or appears and fails to show good cause, the person may be punished for contempt.

5. Before or at the time a person reports for jury service, or at the time jurors are being examined by counsel pursuant to this Section, the Municipal Judge or the Clerk of the Court may discuss with the person any questions on the juror questionnaire and the grounds for any incompetency of the person to act as a juror. Any pertinent information so acquired may be noted on the form.

2.20.220 SUMMONS OF JURORS

1. The Court shall issue a summons for each person on the final jury panel. Not less than twenty days prior to the date set for trial, the Clerk of the Court shall cause the summons to be served on each person on the Preliminary Jury panel by first class mail, or by forwarding the summons to the Chief of Police together with an order signed by the Court Municipal Judge commanding the Chief of Police to cause personal service to be made upon the person identified on the summons, and make true return thereupon.

2. Any person summoned to appear as a juror may be punished by the Court for contempt of Court if:

    a. The person fails to appear before the Court as required or fails to give a valid excuse for not appearing;

    b. The person fails to give attention to matters before the jury;

    c. The person leaves the Court without permission of the Court while the Court is in session; or,

    d. The person fails to complete jury service without valid excuse.

    e. If a person duly summoned to attend the Municipal Court as a juror fails to attend as required or to give a valid excuse therefore, that person may be fined by the Municipal Judge in a sum not to exceed twenty-five dollars ($25.00)

2.20.230 PERSONS INELIGIBLE FOR JURY SERVICE; EXCUSES FROM JURY DUTY

1. When it is found by the Court that the person called for jury service is dead or lacks the qualifications to serve as a juror, as established by this Chapter, the person's name shall be removed from the Preliminary Jury Panel and another name may be selected from the Master Jury List to replace such person.

2. The Court may excuse a person from jury service upon a showing of undue hardship or extreme inconvenience to the person, the person's age, the person's family, the person's employer or the public served by the person. In granting excuses, the Court shall carefully consider and weigh both the public need for juries that are representative of the full community and the individual circumstances offered as a justification for being excused from jury service.

3. If the person is dead or lacks the qualifications to serve as a juror, that person's name shall be removed from the Master Jury List; in all other cases, the person's name shall remain on the Master Jury List and may later be called for jury service.

2.20.240 PROCEDURES FOR JURY SELECTION AND PEREMPTORY CHALLENGES

The procedure for jury selection and peremptory challenges will be set by Court Rule.

2.20.270 COMPENSATION OF JURORS

Jurors who appear at the trial and serve as jurors shall receive such compensation for their services as is provided by state statute

2.20.280 SUBPOENAS

1. It shall be the duty of any person subpoenaed in any proceeding pending before the Municipal Court to appear and testify in accordance with such subpoena.

2. Any person who refuses to appear or to testify as required by subsection (1) Court may issue a warrant for the arrest of such person, and, on being brought before the Court, unless the person shows good cause why the person was unable to attend or testify, the Court shall impose one or more of the sanctions.

2.20.290 WITNESS FEES

Witness fees and mileage shall be paid by the City as provided by ORS.

2.20.300 ASSESSMENT OF COURT COSTS

1. There shall be assessed Court costs fee in each case or matter brought before the Municipal Court. The amount is set by the City's Municipal Court Fees and Charges Resolution.

2. The Municipal Judge has the power to assess any other reasonable Court costs against any person found guilty in a criminal or civil penalty case or against the losing party in any civil case, not exceeding any actual sum expended by the City for juror, witness, or mileage fees.

3. Court costs shall be assessed against each defendant being cited into the Municipal Court for any violation of the SMC or State Statute which may be prosecuted in Municipal Court, whether the defendant answers, fails to appear, or is convicted after a trial, except for violations of the SMC pertaining to motor vehicle parking violations and regulations, unless a warrant is issued to enforce the defendant's appearance.

4. Court costs shall be distinct from any fine or other penalty imposed for any violation prosecuted in the Municipal Court. They shall be considered statutory in nature and may not be suspended or otherwise disposed of. Monies collected as Court costs under this section shall be disposed of and handled in the same manner in which other fines and penalties accruing from other matters in the Municipal Court are handled.

5. All defendants posting bail shall be required, prior to their release, to post the additional sum of Court costs as provided in this section. If the defendant is acquitted after a trial on the merits or if the case is dismissed for any cause, the court costs paid by the defendant must be reimbursed to the defendant.

6. The Court shall, upon conviction, collect any costs authorized by law.

7. Except in the circumstances set forth in ORS, the Court, only in the case of a defendant for whom it enters a judgment of conviction, may include in its sentence thereunder a provision that the convicted defendant pay as costs expenses specially incurred by the City in prosecuting the defendant. Costs include a reasonable attorney fee for counsel appointed pursuant to SMC and Court Rules and a reasonable amount for fees and expenses incurred pursuant to preauthorization under SMC. A reasonable attorney fee is presumed to be the amount certified to the Finance Director under SMC. Costs do not include expenses inherent in providing a constitutionally guaranteed jury trial or expenditures in connection with the maintenance and operation of the Court that must be made by the public irrespective of specific violations of law.

8. The Court may not sentence a defendant to pay costs under this section unless the defendant is or may be able to pay them. In determining the amount and method of payment of costs, the Court shall take account of the financial resources of the defendant and the nature of the burden that payment of costs will impose.

9. A defendant who has been sentenced to pay costs under this Section and who is not in willful default in the payment of costs may at any time petition the Court that sentenced the defendant for remission of the payment of costs or of any unpaid portion of costs. If it appears to the satisfaction of the Court that payment of the amount due will impose manifest hardship on the defendant or the immediate family of the defendant, the Court may waive all or part of the amount due in costs, or modify the method of payment according to SMC.

10. Fee for Dishonored Payments. The Court shall, in the event a defendant who makes a payment that is dishonored, collect the fee authorized by ORS,

2.20.310 SENTENCING

1. The Municipal Judge may, as a condition of sentence, place any convicted person upon probation to the Court for a period not to exceed one (1) year. The Court further may, as a condition of any penalty of imprisonment imposed, direct that the defendant be required to work upon the streets or other City projects or in service of an approved registered non-profit organization, in which case the defendant shall receive credit for two (2) days' imprisonment for each day so employed. The Court further may, as a condition of probation, require the defendant to work upon public property or in service of an approved registered non-profit, provided that the defendant may not be required to work in excess of one (1) day for each two (2) days' imprisonment provided by the maximum penalty for the offense for which that person was convicted.

2. The Municipal Judge may, upon conviction of an offense bearing a penalty of imprisonment, order the convicted party imprisoned in any jail within or without the City which the City may operate or in which, by contract, the City prisoners may be housed.

3. When a defendant is sentenced to pay a fine or costs, the Court may grant permission for payment to be made within a specified period of time or in specified installments. If no such permission is included in the sentence, the fine shall be payable immediately.

4. When a defendant sentenced to pay a fine or costs is also placed on probation or imposition or execution of a sentence is suspended, the Court may make payment of the fine or costs a condition of probation or suspension of sentence.

2.20.320 TRANSFER OF FUNCTIONS TO COUNTY JUSTICE COURT

The Stayton City Council may, upon agreement, transfer any or all functions of the Municipal Court and Municipal Judge to the county justice Court and the county justice Court Judge as set forth in this chapter.

TITLE 2. ADMINISTRATION AND PERSONNEL

CHAPTER 2.24

CABLE COMMUNICATIONS COMMISSION

2.24.610 ESTABLISHED

There is established a commission to be known as the "cable communications commission" (hereafter "commission"), to oversee, administer, and enforce the terms and provisions of this chapter, the ordinance granting the cablevision franchise, and the franchise agreement itself. (Ord. 534, section 1, 1980)

2.24.620 MEMBERSHIP

The city council as now and hereafter constituted shall embody the commission. Those commission members serving under Ordinance 534, as of the date of passage of the ordinance codified in this section, are deemed to have completed their terms of service as cable commission members. (Ord. 645, section 1, 1988: Ord. 534, section 2, 1980)

2.24.630 POWERS AND DUTIES

The commission shall have all the powers conferred upon it by the ordinance granting the cablevision franchise, and shall include, but not be limited to:

1. Advising the council on matters which might constitute grounds for revocation or termination of a franchise pursuant to its terms;

2. Resolving disagreements among the franchisee and public and private users of the cabelvision communications system;

3. Reviewing franchisee performance;

4. Auditing all reports required of the franchisee and submitting an annual report to the city council;

5. Conducting evaluations of the cable vision communication system at least every three years and make recommendations to the council for amendments to the franchise agreement;

6. Acting as the hearing board for all requests for rate settings or adjustments;

7. Determining the city's policies relating to service provided subscribers and the operation and use of access channels, with a view to maximizing the diversity of programs and services to

TITLE 2. ADMINISTRATION AND PERSONNEL

CHAPTER 2.28

PARK AND RECREATION BOARD

SECTIONS

2.28.710 CREATED

For the purpose of maintaining and developing the parks and recreation programs, to advise the city council in such matters, there is created a board of seven (7) people known as the Park and Recreation Board. (Ord. 592, section 1, 1983; Ord. 827, April 16, 2001; Ord. 860, March 15, 2004)

2.28.720 APPOINTMENT: TERMS OF OFFICE

The Park and Recreation Board shall consist of seven (7) members appointed at large within city boundaries. Members shall be appointed in accordance with the City of Stayton Rules of Council to serve two-year terms and may be appointed for any number of terms. Appointments shall be made at the first regularly scheduled city council meeting each year. ~~The mayor will appoint three people to two-year terms and two people to one-year terms; thereafter appointments shall be made as terms expire. The initial appointees shall serve terms expiring December 31, 1984 and 1985, respectively.~~ (Ord. 592, section 2, 1983; Ord. 784, May 18, 1998; Ord. 827, April 16, 2001; Ord. 853, September 2, 2003; Ord. 860, March 15, 2004, Ord. 25-003, May 5, 2025)

2.28.730 FILLING OF VACANCIES

Appointments to fill (Board member) vacancies shall be for the remainder of the unexpired term. A Board member may be removed by the Mayor for misconduct or nonperformance of duty. A Board member who is absent for three (3) consecutive meetings without an excuse approved by the Park and Recreation Board shall be presumed to be in nonperformance of duty and the Mayor may declare the position vacant. Recommendations for misconduct or nonperformance of duty shall be made in writing from the Park and Recreation Board Chair to the Mayor, City Council, and Public Works Director. (Ord. 592, section 3, 1983; Ord. 860, March 15, 2004, Ord. 25-003, May 5, 2025)

2.28.735 COMPENSATION AND RECORDS

The members of the Park and Recreation Board shall serve without pay. (Ord. 860, March 15, 2004)

2.28.740 MEETINGS

1. The Park and Recreation Board shall meet at least once a month on a day determined by the Park and Recreation Board with notification of the scheduled meeting date to be provided to the City Council and public by January 31st of each year. Emergency meetings may be called by the Chair person, provided at least seventy two (72) hours notice is given to the Public Works Director and each member of the Park and Recreation Board. (Ord. 827, April 16, 2001; Ord. 860, March 15, 2004)

2. A majority of the members of the Park and Recreation Board shall constitute a quorum. (Ord. 592, section 4, 1983; Ord. 860, March 15, 2004)

3. All meetings of the Park and Recreation Board shall be open to the public and subject to Oregon=s Open Meeting Law (ORS 192.610 to 192.690). (Ord. 592, section 4, 1983; Ord. 827, April 16, 2001; Ord. 874, section 5, 2004)

2.28.750 ORGANIZATION

The Park and Recreation Board shall elect a Chairperson and Vice Chairperson at its first meeting of each year. ~~The Chairperson shall appoint a Secretary of the Board at this meeting.~~ The meeting shall be staffed, as appropriate, by City staff to ensure meetings are conducted in accordance with the applicable laws and to serve as a resource for the Board. (Ord. 592, section 5, 1983; Ord. 860, March 15, 2004, Ord. 25-003, May 5-2025)

2.28.760 DUTIES OF OFFICERS

The duties of the officers of the Park and Recreation Board shall be as follows:

1. <u>Chairperson</u>

   a. Preside at all meetings of the Park and Recreation Board;

   b. Call meetings of the Park and Recreation Board in accordance with the bylaws and rules;

   c. Sign correspondence of the Park and Recreation Board.

2. <u>Vice Chairperson</u>. During the absence of the Chairperson the Vice Chairperson shall perform all of the duties of the Chairperson.

3. ~~Secretary. The Secretary or designee shall maintain a record of all proceedings of the Board.~~ (Ord. 592, section 6, 1983; Ord. 860, March 15, 2004, Ord. 25-003, May 5, 2025)

2.28.770 FUNCTIONS AND RESPONSIBILITIES

1. General Functions of the Park and Recreation Board (Ord. 25-003, May 5, 2025)

   a. To provide advice to the City Council about major programs, activities and policies related to parks, the Stayton Memorial Pool and recreational activities in the community;

   b. To provide input and recommendations on projects and programs that engage the public and enhance parks, pool, and recreation opportunities;

   c. To provide input and recommendations to the Park and Recreation Plan;

   d. To offer input on financial planning related to parks, pool and recreation.

   ~~e. To provide input and recommendations to meet objectives outlined in the Park and Recreation Plan;~~

   ~~f. To keep public officials informed of the status and progress of recreation services;~~

   ~~g. To recommend a sound fiscal plan to achieve park and recreation goals;~~

   e. To recommend an adequate system of park and recreation areas and facilities; and

   f. To provide input and recommendations on pool facility improvements, priorities and modifications; and

   g. To actively participate in and support programs and initiatives that enhance community engagement and park involvement.

   ~~h. To provide recommendation for cost effective general operations;~~

2. Specific responsibilities and duties of the board: (Ord. 25-003, May 5, 2025)

   a. Act in an advisory capacity to the City Council, City Manager, and Public Works Director;

   b. Recommend park, pool and recreation service policies to the City Council;

   c. Recommend and advise the City Council on problems of recreational services, facilities, and program issues;

   d. Make recommendations to the City Council on the development and maintenance of trails, bikeways and pedestrian ways within the city's parks;

   e. Aid in coordinating the parks and recreation services with the programs of

other governmental agencies and voluntary organizations;

f. Review the effectiveness of the parks, pool and recreation program with the Public Works Director or the City Manager;

~~g.~~ Serve as an ambassador for the parks, pool, and recreation by sharing information and engaging the public and sharing information received from the public with staff and the Council; ~~Interpret the policies and functions of the parks and recreation programs to the public;~~

h. Aid in the recruiting and coordinating of volunteers for all park and recreation issues, and;

i. Review draft Park and Recreation Budget prepared by the Public Works Director prior to submittal to the Stayton Budget Committee. (Ord.725, '1, December, 1993; Ord. 860, March 15, 2004)

subscribers. The use of access shall be allocated on a first-come, first-served basis, subject to limitations on monopolization of system time or prime times;

8. Acting on behalf of and as the designee of the city council in intergovernmental matters relating to cable communications systems, cooperate with other cable communications systems, and supervise interconnection of cable communications systems;

9. Employing, with the approval of the council, the services of a technical consultant, to assist in the analysis of any matter relative to the franchise;

10. Exercise any other power or perform any other function authorized by the city council;

11. The commission is to be a recommending body only and nothing in this chapter, the ordinance granting the franchise, or the franchise agreement shall be construed to give the commission an exclusive power. Any action taken by the commission may, at the council's discretion or as otherwise provided, be reviewed, modified, or reversed. (Ord. 634, section 3, 1980).

TITLE 2. ADMINISTRATION AND PERSONNEL

CHAPTER 2.32

PUBLIC SAFETY COMMISSION

SECTIONS

2.32.810 PURPOSE

The purpose of the Stayton Public Safety Commission (PSC) is to provide citizen input to the Stayton Chief of Police and Police Department as to the safety needs of the greater Stayton community. It is also to share the needs of the Police Department so it can better provide public safety to the community. The goals of this Commission include:

1. Creating a stronger partnership between the greater Stayton community and its Police Department;

2. Assisting the Police Department in building trust and enhancing communication between the Department and the greater Stayton community; and,

3. Subject to the approval of the Stayton City Council, the Commission shall recommend necessary regulations and guidelines in relation to the general welfare of the City concerning police and public safety related issues and the property function of the Department. (Ord. 658, section 1 [part], 1989: prior code section 2.560; Ord. 927, July 2010)

2.32.820 COMMISSION MEMBERS

1. The PSC shall be comprised of a minimum of five members representing, but not limited to, to the best extent possible and practicable, the following group types: neighborhood associations, service groups, ethnic and racial groups, religious groups, youth communities and such other individuals and community-based organizations sharing the purposes and goals set forth herein. Residents of the

Stayton and Sublimity City limits and the Stayton Urban Growth Boundary (UGB) are eligible to be members.

2. Vacancies shall be filled by the Mayor's appointment. The Mayor may receive member recommendations from the City Council, PSC, City Staff, Community groups, Citizens generally. Nominees should show interest/involvement in the Stayton community.

3. A member may withdraw from the PSC at any time, upon fourteen (14) days written notice before any meeting, delivered to the Chair, Vice-Chair or Secretary. Members are required to notify the Chair or Staff Secretary prior to a meeting of an intended absence and the reason(s), e.g. illness, vacation, conflicting meetings (exceptions may be made for police officers and other city officials due to the nature of their work, however notification should still be given). A member who misses three consecutive meetings may be removed from the PSC by a majority vote of the members where a quorum is present at a regular meeting held within two months of the missed third consecutive meeting.

4. The Mayor will be informed of all vacancies and fill them as soon as practical.

5. The term of a member is two years. The member's terms will be staggered so that each year at least three members will be continuing. The first year the commission is established, three members will be appointed to a three year term for the first term for the purpose of staggering the appointments thereafter. Thereafter member's terms will be two years. A member of PSC may be reappointed for additional terms.

6. A member, other than the Chief of Police, the Chair or Vice Chair of PSC, without the expressed authority from the PSC, may not make comments on behalf of PSC to news media and/or civic organizations. A member who makes comments without such approval to news media and/or civic organization, may identify themselves as a member of PSC, but shall make clear that any opinions expressed are their own, and not that of PSC. (Ord. 927, July 2010)

2.32.830 OFFICERS

1. The officers of the Public Safety Commission shall consist of a Chairperson, a Vice-Chair, and the immediate past Chair. In the event of an officer position vacancy a special election will be held by the Commission. The Chair and Vice-Chair shall be elected from the members at a general meeting held in January of

each year. The immediate past Chair is a person who most recently had been the Chair. The officers shall serve one-year terms and may be re-elected twice without a break in service.

2. Duties of the Chair – The Chair shall have general supervisory and discretional powers of the activities of the Commission, and shall coordinate communications between members, the Police Department, the Chief of Police, subcommittees, and other interested community groups, and, when necessary, any concerted action undertaken by the PSC. The Chair shall preside at all meetings, and has the primary responsibility thereof. The Chair may delegate tasks and responsibilities to group members or committees as appropriate. The Chair is authorized to speak on behalf of PSC to news media and/or civic organizations to make comments on particular issues.

3. Duties of the Vice Chair – The Vice Chair shall perform all duties as directed by the Chair, and in the absence of the Chair, shall perform all the duties of the Chair. The Vice Chair is authorized to speak on behalf of PSC to news media and/or civic organizations to make comments on particular issues, at the request of or in the absence of the Chair.

4. Duties of the past Chair – In the absence of both the Chair and the Vice Chair, the immediate past Chair shall perform the duties of the Chair.

5. Secretary – The Stayton Police Department shall provide secretarial and staff support, as needed.

6. The Chief of Police is an ex-officio member of the Commission and all standing committees, having the same rights (such as voting) as other Commission members but is not obligated to attend. When the Chief of Police is present, the Chief is counted for quorum requirements. The Chief of Police or authorized representative is authorized to speak on behalf of PSC to news media and/or civic organizations to make comments on particular issues. The Chief of Police shall not hold an officer position. (Ord. 927, July 2010)

2.32.840 NOMINATION AND ELECTIONS

1. At the meeting at which officers are elected, the Chair shall call for nominations from the floor for the purpose of electing a candidate to fill the position for which there are vacancies. Nominees from the floor must be members of PSC.

2. Elections. The selection of members of PSC may be voice vote or by secret ballot, electing officer(s) those individuals placed on the ballot to fill the vacant office(s) of PSC. A secret ballot shall be made if requested by any member of PSC.

3. The votes shall be tallied and certified by the Secretary and one other member or Chief of Police. The results of election shall be announced by the Secretary.

4. A simple majority of the votes cast, shall constitute election of the officer provided there is a quorum for the election process.

5. The newly elected officer(s) shall take office immediately.

6. A vacancy in one of the offices shall be filled by membership vote no later than following the second consecutive regular meeting. (Ord. 927, July 2010)

2.32.850 MEETINGS

1. Regularly scheduled meetings shall be held quarterly in February, May, August, and November. However, the Chair may call for a vote to suspend certain meetings. The Chair or the Chief of Police or the Chief of Police's Designated Representative may call special meetings of PSC.

2. Official PSC business shall be conducted when a quorum is present. A quorum shall consist of a simple majority of the then current membership of PSC.

3. Any member of PSC may submit agenda items to the Chair and the Secretary at least one week prior to the next scheduled meeting.

4. Meetings will be conducted pursuant to an agenda developed by the member who will be serving as Chair at the next regular meeting.

5. In the event that a vote by the PSC is called for, each PSC member is entitled to one vote. Issues before PSC for vote shall be decided by majority vote, provided there is a quorum present.

6. Other business not on the scheduled agenda may be called for by any member of PSC. However, at the Chair's discretion the Chair reserves the right to accept or reject any other business not scheduled on the agenda to come before the Commission.

7. Chairs of committees or subcommittees shall notify the Chair, Vice Chair and Chief of Police of the time/place of their meetings. (Ord. 927, July 2010)

2.32.860 COMMITTEES

1. The PSC may establish standing committees to achieve the purposes as set forth in this Chapter.

2. Standing committees may be established and terminated by PSC for specific purposes. Any committee no longer serving its purpose shall be dissolved by the Chair. Committees of all types are appointed by the Chair. Members of committees need not be members of PSC. Each committee shall be required to report to PSC as directed by the Chair. (Ord. 927, July 2010)

2.32.870 PARLIMENTARY PROCEDURE

On any procedural question not addressed by this Chapter, Robert's Rules of Order may provide procedure guidelines. The Chair may appoint a parliamentarian to resolve procedural issues as appropriate. (Ord. 927, July 2010)

TITLE 2. ADMINISTRATION AND PERSONNEL

CHAPTER 2.34

TRANSPORTATION COMMITTEE

SECTIONS

2.34.850 TRANSPORTATION COMMITTEE: ESTABLISHED

There is hereby established the Stayton Transportation Committee the duties and responsibilities of which are defined in section 2.34.900. (Ord. 725, §3, December 1993)

2.34.860 TRANSPORTATION COMMITTEE: APPOINTMENT AND TERMS OF OFFICE

1. The Stayton Transportation Committee shall consist of one council person and five members, all of whom are appointed from the community at large (but one of whom may be appointed from outside the city limits), who shall serve from January 1st in the year of their appointment. Members are appointed in accordance with the City of Stayton Rules of Council (Ord. 783, April 22, 1998). The mayor shall also appoint a council liaison to serve as a non-voting member of the Transportation Committee.

2. One member of the committee shall initially hold office for one (1) year, two members shall hold office for two (2) years, and two members shall hold office for three (3) years. At the expiration of any member's term, the mayor shall appoint a new member or may reappoint a member for a three-year term. If a vacancy occurs, the mayor shall appoint a new member for the unexpired term.

3. No person shall hold appointment as a member for more than two (2) full consecutive terms, but any person may be appointed again to the committee after an interval of one (1) year.

4. Vacancies and Removal. Appointment to fill vacancies shall be for the remainder of the unexpired term. A member may be removed by the

mayor and council for misconduct or non-performance of duty. A member who is absent for three (3) consecutive meetings without an excused absence approved by the Transportation Committee shall be presumed to be in nonperformance of duty and the mayor and city council shall declare the position vacant. A judgment of misconduct or nonperformance of duty shall be made in writing from the Transportation Committee to the mayor and council. (Ord. 745, §1, May 1995)

2.34.870 TRANSPORTATION COMMITTEE: MEETINGS

The chairman of the Stayton Transportation Committee shall convene meetings of the committee on an as-needed basis. All members of the committee shall be notified of a scheduled meeting at least seven (7) days prior to the date the meeting will take place. All meetings of the Stayton Transportation Committee shall be open to the public and shall comply with Oregon Open Meetings Law (ORS 192.610 to 192.690). All parliamentary questions which are not otherwise provided by rules adopted by the city shall be governed by *Robert's Rules of Order*. (Ord. 725, section 3, December 1993; Ord. 874, section 6, 2004)

2.34.880 TRANSPORTATION COMMITTEE: QUORUM

A majority of the members of the Stayton Transportation Committee shall constitute a quorum. (Ord. 725, §3, December 1993)

2.34.890 TRANSPORTATION COMMITTEE: OFFICERS

1. Chairperson. A chairperson shall be elected at the first meeting of each calendar year. The chairperson shall:

   a. Call meetings of the Stayton Transportation Committee;

   b. Preside at all meetings of the Stayton Transportation Committee;

   c. Sign correspondence on behalf of the committee.

2. Vice Chairperson. A vice chairperson shall be elected at the first meeting of the calendar year and shall, in the absence of the chairperson, perform all duties of that office.

3. Secretary. A secretary shall be elected at the first meeting of each calendar year and shall record the proceedings of all meetings. (Ord. 725, §3, December 1993)

2.34.900 TRANSPORTATION COMMITTEE: DUTIES AND RESPONSIBILITIES

1. To identify needed street, sidewalk, bikeway, pedestrian way, and storm sewer construction projects.

2. To annually prioritize street construction projects and recommend to the city council a fiscally sound street-related capital improvement program.

3. To recommend policies for initiation and administration of local improvement district projects.

4. To develop a prioritized long-range plan for future street development, including financing alternatives.

5. To act in an advisory capacity to the city council, city administrator, and public works director in relation to street related capital improvement projects. (Ord.725, §3, December 1993)

TITLE 2. ADMINISTRATION AND PERSONNEL

CHAPTER 2.36

PLANNING COMMISSION

SECTIONS

2.36.910 ESTABLISHED

There is hereby created a city planning commission, referred to as "the Commission" in this chapter. (Ord. 658, section 1[part], 1989: Ord. 642, section 2[part], 1988: prior code section 2.450)

2.36.920 MEMBERSHIP, TERMS, FILLING OF VACANCIES, ORGANIZATION

1. The commission shall consist of five (5) adult members and one non-voting high school student of junior level academic standing, enrolled at either Stayton High School or Regis High School. Members are appointed in accordance with the Rules of the Stayton City Council. (Ord. 808, January 2000; Ord. 866, August 16, 2004; Ord. 948, August 20, 2012)

2. Terms of office for planning commission members:

   a. The high school student shall hold office for one (1) year commencing at the Commission's January meeting. (Ord. 808, January 2000)

   b. The seven adult Commission members shall hold office for three (3) years on staggered terms. (Ord. 808, January 2000; Ord. 866, August 16, 2004)

   c. Staggered terms shall be accomplished, on a one time basis, by reducing the term of one Planning Commission member's position by one year at the time of the January 2001 appointments. (Ord. 808, January 2000)

3. Any vacancy shall be filled by the mayor for the unexpired portion of the term.

4. All new members shall reside inside the Stayton city limits, except one may reside outside the city limits but within the Stayton urban growth boundary.

5. If any commission member is absent from three (3) or more consecutive regular meetings without excuse from the commission, the commission chair shall declare the position vacant and notify the mayor to appoint someone to fill the unexpired portion of the term.

6. At the annual meeting in January, the commission shall elect its own chair and vice-chair, who shall be voting members of the commission and who shall hold office at the pleasure of the commission.

7. Commission members shall receive no compensation, but shall be reimbursed for duly authorized expenses. (Ord. 658, section 1[part], 1989: Ord. 642, section 2[part], 1988: prior code section 2.455: Ord. 703, section 1, 1992)

2.36.930 RULES AND REGULATIONS

1. Three members of the commission, including the chair, shall constitute a quorum, but a lesser number may adjourn the meeting to a later date. (Ord. 866, August 16, 2004; Ord. 948, August 20, 2012)

2. The commission may make and alter rules and regulations for its government procedure consistent with the laws of this state, with the city charter, and with city ordinances and this code.

3. The commission shall meet at least once a month.

4. Special meetings may be called at any time by the chair of the commission or by any three (3) members by giving notice to each member of the commission and to the media at least twenty-four (24) hours before the time specified for the proposed meeting.

5. An informed public, aware of the deliberations and decisions of the City of Stayton, is beneficial to the community; therefore, the planning commission shall comply with Oregon Open Meetings Law (ORS 192.610 to 192.690). All parliamentary questions which arise, not otherwise provided by rules adopted by the city, shall be governed by *Robert's Rules of Order*. (Ord. 874, section 7, 2004)

6. The council shall assign to the commission a location in which to hold its meetings, transact its business, and keep its records. A secretary shall be appointed by the city administrator and shall keep an accurate record of all commission proceedings.

7. All recommendations made to the council by the commission shall be in writing. (Ord. 658, section 1[part], 1989: Ord. 642, section 2[part], 1988: prior code section 2.457)

2.36.940 POWERS AND DUTIES

1. The commission has power and authority as follows:

   a. To employ consulting advice on municipal problems, a secretary and such clerks as may be necessary, and to pay for their services and for such other expenses as the commission may lawfully incur, including the necessary disbursements incurred by its members, out of such funds as are placed at the disposal of the commission by the council.

   b. To make recommendations and suggestions to the council, other public officials, and individuals concerning any matter relating to community planning and development.

2. The commission shall also have all the powers which are now or which hereafter may be granted to it by ordinance of this city or by local or state law. (Ord. 874, section 8, 2004)

3. The council and administrative officers shall procure the recommendations of the commission where so required by state laws or city ordinances. (Ord. 658, section 1[part], 1989: Ord. 642, section 2[part], 1988: prior code section 2.460)

2.36.950 TRAINING AND EDUCATION

1. It shall be the responsibility of the city council to make sure that all new commission members receive education on the applicable planning laws of the State of Oregon, County of Marion, and City of Stayton within thirty (30) days of their appointment. (Ord. 874, section 9, 2004)

2. Planning commission members shall be provided all applicable planning and zoning laws of the city. (Ord. 642, section 2[part], 1988: prior code section 2.460; Ord. 658, section 1[part], 1989; Ord. 874, section 9, 2004)

2.36.960 EXPENDITURES

The commission shall have no authority to make expenditures on behalf of the city or to obligate the city for the payment of any sums of money, except as provided specifically in this chapter, and then only after the council first authorizes such expenditures by appropriate ordinance or resolution, which ordinance or resolution shall provide the

administrative method by which such funds shall be drawn and expended. (Ord. 658, section 1[part], 1989: Ord. 642, section 2[part], 1988: prior code section 2.465)

TITLE 2. ADMINISTRATION AND PERSONNEL

CHAPTER 2.38

HOUSING AND NEIGHBORHOOD VITALITY ADVISORY COMMISSION

SECTIONS

2.38.010 ESTABLISHED

There is hereby created the Housing and Neighborhood Vitality Advisory Commission, referred to as "the Commission" in this Chapter.

2.38.020 MEMBERSHIP, TERMS, FILLING OF VACANCIES, ORGANIZATION

1. The Commission shall consist of five (5) members, who shall hold office for three (3) years on staggered terms. Members are appointed in accordance with the Rules of the Stayton City Council.
2. All members shall reside inside the Stayton city limits, except one may reside outside the city limits but within the Stayton urban growth boundary.
3. If any Commission member is absent from three (3) or more consecutive regular meetings without prior notice, the Commission chair shall declare the position vacant and notify the Mayor to appoint someone to fill the unexpired portion of the term.
4. At the first meeting of each calendar year, the Commission shall elect its own chair and vice-chair, who shall be voting members of the Commission and who shall hold office at the pleasure of the Commission.
5. Commission members shall receive no compensation, but shall be reimbursed for duly authorized expenses.

2.36.030 RULES AND REGULATIONS

1. Three members of the commission, including the chair, shall constitute a quorum, but a lesser number may adjourn the meeting to a later date.
2. The Commission may make and alter rules and regulations for its governing procedure consistent with the laws of this state, the City Charter, and this Code.
3. The Commission shall meet at least quarterly.

4. Special meetings may be called at any time by the chair of the Commission or by any three (3) members by giving notice to each member of the Commission and to the media at least twenty-four (24) hours before the time specified for the proposed meeting.

5. An informed public, aware of the deliberations and decisions of the City of Stayton, is beneficial to the community; therefore, the Commission shall comply with Oregon Open Meetings Law (ORS 192.610 to 192.690). All parliamentary questions which arise, not otherwise provided by rules adopted by the City, shall be governed by *Robert's Rules of Order*.

6. The City Council shall assign to the Commission a location in which to hold its meetings, transact its business, and keep its records. A secretary shall be appointed by the City Administrator and shall keep an accurate record of all Commission proceedings.

7. All recommendations made to the City Council or Planning Commission by the Commission shall be in writing.

2.36.040 DUTIES AND RESPONSIBILITIES

The Commission shall have the following responsibilities related to the City's housing and neighborhood vitality program and other programs as directed by the City Council:

1. In cooperation with other City boards and commissions, formulate and recommend policy to the Planning Commission and City Council on housing affordability and neighborhood vitality issues.

2. Recommend policies to the Planning Commission and City Council to provide for and conserve very low, low and moderate income housing in the City.

3. Review and make recommendations regarding City applications for Federal, State or other funding sources related to the purpose of the Commission.

4. Monitor and evaluate planning, programming, and implementation of housing and neighborhood revitalization activities.

5. The Planning Commission, City Council, and administrative officers shall procure the recommendations of the Commission where so required by state laws or city ordinances.

CHAPTER 2.40
PUBLIC ARTS COMMISSION

SECTIONS

2.40.010 ESTABLISHMENT

There is hereby created and established a Public Arts Commission for the City of Stayton, Oregon. The purpose of this commission is to promote the educational, cultural, economic and general welfare of Stayton by actively pursuing the placement of public art in public spaces within Stayton city limits while also serving to preserve and develop public access to the arts.

The term "art" shall include, but not be limited to:

1. Artwork in Mixed Medias
2. Ceramic Arts
3. Fiber and/or Textiles Arts
4. Graphic Arts, Printmaking, Drawing
5. Painting
6. Photography
7. Sculpture
8. Statuary and/or Monuments
9. Temporary Works of Art
10. Wood, Metal, Plastics, Glass

The Commission may assist the City Council, the Parks and Recreation Commission, and the Planning Commission in using public art to enhance existing development in public parks and other public lands and in public structures.

The commission shall advise the Planning Commission, the Parks and Recreation Commission, other City commissions and committees and City departments regarding artistic components of all municipal government projects under consideration by the City. The Commission may also serve as a resource for artistic components of land use developments.

The Commission shall develop and recommend to the City Council policies and programs that would enhance and encourage the planning, placement, and maintenance of public displays of art in locations open to the public within the community.

2.40.020 MEMBERSHIP, APPOINTMENT, TERMS, ORGANIZATION

1. The Public Arts Commission shall consist of five members to be nominated by the Mayor and confirmed by the City Council to serve three-year terms and may be appointed for any number of terms.
2. Appointments shall be made at the first regularly scheduled city council meeting each year. The mayor will appoint two people to three-year terms and two people to two-year terms and one person to a one-year term; thereafter appointments shall be made as terms expire for three-year terms.
4. The Commission shall consist of five members who shall be volunteers and have an interest, education and/or expertise in public art. Such experience may include, but shall not be limited to, education and experience as an architect, landscape architect, professional curator, professional artists, art educators or interested community members with experience in the arts. These five members of the commission shall reside or own a business or property in the City of Stayton. (Ord. 1069, October 7, 2024)
5. At the initial meeting, Public Arts Commission members shall organize by selecting a chair and a vice-chair from the membership. Thereafter, these elections shall occur at the first regular meeting of each calendar year. The Public Arts Commission may make rules and regulations for its own governance and procedures consistent with the laws of the State of Oregon as well as the charter and ordinances of the City Stayton. Three voting members of the Public Arts Commission shall constitute a quorum.
6. The Public Arts Commission shall meet at least quarterly each calendar year and may hold additional meetings as set by the commission. Public Art Commission meetings are public meetings and require notice to the general public. A commission member who misses more than two consecutive meetings which are unexcused loses the member’s status as a Public Arts Commission member. Absences due to sickness, death of a family member or similar emergencies shall be regarded as approved absences and shall not affect the member's status on the commission. In the event of a long illness, or such cause for prolonged absence, the member may be replaced.
7. Vacancies upon the commission shall be filled by appointment by the City Council, after the position has been advertised and applications are received and reviewed by the City Council. The newly appointed member will fill remaining term of the vacant commission position.
8. The members of the Public Arts Commission shall receive no compensation for their services.

2.40.030 RESPONSIBILITIES

It is the responsibility of the Public Arts Commission to assist the City Council and/or other City of Stayton boards and/or commissions in using public art to enhance existing development in public parks and other public lands and in public structures. The Public Arts Commission shall:

1. Advise the City Council and/or other City of Stayton boards and/or commissions and city departments regarding artistic components of all municipal government projects under consideration by the City.
2. Recommend expenditures of funds to the City Council for the acquisition of public art, for maintenance of public art and for administration of this program.
3. Develop and recommend to the City Council policies and programs that would enhance and encourage the planning, placement, insurance and maintenance of public displays of art in locations within the community open to the public.
4. Work with the City of Stayton to assure all public art is placed or installed in accordance with current city or state standards or laws.
5. Oversee the maintenance, care and repair of the public art collection. Oversee proper written and visual documentation and cataloguing of the Public Art Collection.
6. Recommend revisions to policies and guidelines for the improved implementation of this program.
7. Ensure that the use of funds collected under this program will increase the amount of art in the city that is available to the public.
8. Seek private donations of funds, works of art, devises of property, and grants for the purposes of expanding the public art collection or the maintenance of the collection. Donations of cash can be accepted by the Public Art Commission unless attached or restricted by/with a contingency, condition or caveat. Any donation with restrictions must be approved by the City Council. All donations of art must be approved by the Public Art Commission. All donations of property or tangible assets for public art must be approved by the Public Art Commission and the City Council. Review the appropriateness of proposed public art which is intended to fulfill all or part of the contribution required by this ordinance.
9. Recommend appropriate locations and accessibility to the public for permanent public art.
10. Review and make a recommendation to the City Council regarding approval and acceptance of any public art to be donated by a private individual or organization.

2.40.040 STANDARDS AND RULES

1. Members of the Public Arts Commission shall operate in the interest of the general public and serve the community as a whole.

2. Commission members shall not participate in the endorsement of any commercial product or enterprise. Commission members shall not participate in any decision regarding an organization in which they are member.
3. All commission members may vote on any matter coming before the commission, except as the ethics laws of the State of Oregon may provide.

2.40.050 FUNDING; ESTABLISHMENT OF A PUBLIC ART FUND

The City shall establish a special revenue fund designated as the "Public Art Fund" in the City budget from which expenditures may be made in accordance with this Chapter. The Public Art Fund shall contain a capital account to fund public improvements in the form of the purchase or acquisition of new public art as well as an operations and maintenance account. Capital funds may come from any source, including the sale of general obligation bonds.

2.40.060 PROCESS FOR ACQUIRING PUBLIC ART

The Public Art Commission will call for entries by issuing a request for proposal, a request for qualification or by invitation. The call for entries will include specific guidelines and criteria for the specific project. Every call for entry must comply with the City's public contracting rules.

1. Acquisition. Acquisition of public art will generally result from:
    a. The commissioning or purchasing of a work of public art by the City using city funds or donated funds, in accordance with public contracting laws; or
    b. An offer made to the City to accept a work of public art as a gift, donation, or loan.
2. Removal. Removal of public art may be by request or owing to some damage or destruction of the artwork.

2.40.070 GUIDELINES FOR RECOMMENDATION BY THE COMMISSION

1. Selection Guidelines for Works of Public Art:
    a. Quality. The artwork should be of exceptional quality and enduring value.
    b. Site. The artwork should enhance the existing character of the site by taking into account scale, color, material, texture, content, and the social dynamics of the location.
    c. History and Context. The artwork should consider the historical, geographical, and cultural features of the site, as well as the relationship to the existing architecture and landscaping of the site.
    d. Initial Cost. The total cost of the artwork, including all items related to its installation, should be considered.
    e. Maintenance and Durability. The durability and cost to maintain the artwork should be considered and quantified, particularly if the work is servicing, repainting, repairing or replacement of moving parts.

f. Permanence. Both temporary and permanent art works shall be considered.

g. Media. All forms of visual media shall be considered, subject to any requirements set forth by city ordinance.

h. Public Liability. The artwork should not result in safety hazards, nor cause extraordinary liability to the City.

i. Diversity. The artwork in the Stayton Public Art Collection should encourage cultural diversity.

j. Commercial Aspect. The artwork shall not promote goods or services of adjacent or nearby businesses.

k. Compliance. Artworks shall not violate any federal, state, or local laws.

2. Guidelines for Site Selection

a. Ownership or Control. Public art should be placed on a site owned or controlled by the City, or there should be a written agreement or legal instrument, granting the City permission to use the property for public art purposes, including access for installation, maintenance, and removal.

b. Visual Accessibility. Public art should be easily visible and accessible to the public.

c. Visual Enhancement. Public art should visually enhance the overall public environment and pedestrian streetscape.

d. Pedestrian Accessibility. Public art should experience high levels of pedestrian traffic and be part of the City's circulation paths.

e. Circulation. Public art should not block windows, entranceways, roadways, sight vision triangles, or obstruct normal pedestrian circulation or vehicle traffic. The City's Public Works Department shall review and approve of locations in or adjacent to street rights of ways prior to placement.

f. Scale. Public art should not be placed in a site where it is overwhelmed or competing with the scale of the site, adjacent architecture, large signage, billboards, etc.

3. Removal

a. The Commission may recommend removal and/or disposal based on one or more of the following conditions. No public hearing is required for a removal recommendation.

i. The site for an artwork has become inappropriate because the site is no longer accessible to the public or the physical site is to be destroyed or significantly altered.

ii. The artwork is found to be forged or counterfeit.

iii. The artwork possesses substantial demonstrated faults of design or workmanship.

iv. The artwork causes excessive or unreasonable maintenance.

v. The artwork is damaged irreparably, or so severely that repair is impractical.

vi. The artwork presents a physical threat to public safety.

vii. The artwork is rarely displayed.

viii. A written request for removal has been received from the artist.

b. Council Removal Process

i. On its own motion, or following receipt of a recommendation from the Commission, the Council may remove and dispose of any artwork previously accepted into the Stayton Public Art Collection in their sole discretion.

ii. Acceptance or placement of donated art by the City does not guarantee continuous public display of the artwork regardless of physical integrity, identity, authenticity, or physical condition of the site.

iii. Removal officially deletes the work from the City of Stayton Public Art Collection by a relinquishment of title to the artwork; thus, eliminating the City's obligation to maintain and preserve the artwork.

iv. Notwithstanding the above, artwork shall be disposed of in accordance with any specific terms for removal and disposal set forth in the contract with the Artist.

c. Removal and Disposal.

i. The City may donate the artwork to another governmental entity or a nonprofit organization.

ii. A work that is deemed to have retained sufficient monetary value to warrant resale shall be disposed of through a public sale, auction, or any other means as established by city ordinance.

iii. Artworks removed from the Stayton Public Art Collection may be disposed of through any appropriate means, including the City's procedures for the disposition of surplus property.

TITLE 2. ADMINISTRATION AND PERSONNEL

CHAPTER 2.44

EMERGENCY MANAGEMENT PLAN

SECTIONS

2.44.1010 PURPOSE

The purpose of this section is to protect, through planning, training, and organization, and by authorizing the exercise of emergency powers as prescribed by this title, the lives and property of the citizens of the City of Stayton in the event of disaster. (Ord. 708, July 1992)

2.44.1020 DEFINITIONS

EMERGENCY: Any manmade or natural event of circumstance causing or threatening the life, injury to person or property, human suffering or financial loss, and includes, but is not limited to, fire, explosion, flood, severe weather, drought, earthquake, volcanic activity, spills or releases of oil or hazardous material (as defined in ORS 466.605(7)), contamination, utility or transportation emergencies, disease, blight, infestation, crisis influx of migrants unmanageable by the county, civil disturbance, riot, sabotage, or war. (Ord. 874, section 10, 2004)

EMERGENCY MANAGEMENT: The preparation for and the carrying out of all emergency functions and prevention, minimization, and repair of damage resulting from an emergency; provided, however, that this term does not refer to the functions for which military forces are primarily responsible.

EMERGENCY MANAGEMENT AGENCY: An organization created and authorized under ORS 401.015 to 401.105, 401.260 to 401.325, and 401.355 to 401.580, by the state, county, or city**,** to provide for and ensure the conduct and

coordination of functions for comprehensive emergency program management. (Ord. 874, section 10, 2004)

EMERGENCY MANAGEMENT DIRECTOR: Appointed by the city administrator, the Emergency Management Director is responsible for preparing a plan for the provision of emergency services in the event of a disaster or emergency, for conducting necessary training sessions and practice drills, and for coordinating such emergency services during an actual emergency.

EMERGENCY MANAGEMENT PLAN: The Emergency Response Plan prepared for the City of Stayton.

EMERGENCY OPERATIONS CENTER: The City of Stayton Emergency Operations Center is in the city hall/police department/Santiam Canyon Communications Center building complex. They are located at 362 N. Third Avenue and 364 N. Third Avenue in Stayton. The Emergency Operations Center may be moved by authority of the Emergency Management Director when deemed necessary for safety and/or efficiency of operation.

EMERGENCY SERVICES: Those activities provided by state and local government agencies with emergency operational responsibilities to prepare for and carry out any activity to prevent, minimize, respond to, or recover from an emergency. These activities include, without limitation, coordination, preplanning, training, interagency liaison, fire fighting, oil and hazardous material spill or release clean-up (as defined in ORS 466.605(2)), law enforcement, medical health and sanitation services, engineering and public works, search and rescue activities, warning and public information, damage assessment, administration and fiscal management, and those measures known as "civil defense." (Ord. 708, July 1992; Ord. 874, section 10, 2004)

2.44.1030 EMERGENCY MANAGEMENT DIRECTOR APPOINTMENT

The city administrator shall appoint an Emergency Management Director. (Ord. 708, July 1992)

2.44.1040 POWERS AND DUTIES OF THE EMERGENCY MANAGEMENT DIRECTOR IN PREPARATION FOR AN EMERGENCY

Subject to the direction and control of the city administrator or acting city administrator, the Emergency Management Director shall be empowered as follows:

1. Oversee and provide direction to the emergency management program.

2. Review the emergency management plan and recommend revision as necessary.

3. Activate the emergency operations center when needed.

4. Coordinate city emergency management activities.

5. Conduct exercises to test the plan and the capabilities of the city.

6. Attend timely update briefings with other policy group members when an EOC has been activated.

7. Facilitate training for emergency management personnel.

8. Represent the city in all emergency management activities.

9. Provide liaison with other emergency management offices and with volunteer organizations tasked with emergency responsibilities.

10. Carry out other specific responsibilities listed in plan. (Ord. 708, July 1992)

2.44.1050 AUTHORITY OF THE EMERGENCY MANAGEMENT DIRECTOR IN THE EVENT OF AN EMERGENCY

Subject to the supervision and control of the city administrator or acting city administrator, the Emergency Management Director shall be empowered during an emergency as follows:

1. To obtain vital supplies, equipment, and such other requirements as may be necessary for the protection of life and property and to bind the City of Stayton for the fair value thereof and, if necessary, to immediately commandeer the same for public use. These powers may be exercised in light of the circumstance of extreme emergency situations without regard to time-consuming procedures and formalities prescribed by law (excepting mandatory constitutional requirements) including, but not limited to, budget law limitations, the requirements of competitive bidding, the publication of notices, entering into public works contracts, the incurring of obligations, the employment of temporary workers, the rental of equipment, the purchase of supplies and materials, and the expenditure of public funds.

2. To requisition necessary personnel and/or material of any of the city's departments or agencies.

3. To require the emergency services of any city officer or employee, and, after the declaration of an emergency pursuant to ORS 401.015 to ORS 401.580**,** to command the aid of as many citizens as are necessary; provided, however, that such persons shall be entitled to all privileges, benefits, and immunities provided

by state law for registered emergency service volunteers. (See ORS 401.355 to ORS 401.465) (Ord. 708, July 1992; Ord. 874, section 11, 2004)

2.44.1060 EMERGENCY MANAGEMENT PLAN

The Stayton City Council shall adopt an Emergency Management Plan by separate resolution. (Ord. 708, July 1992)

2.44.1070 DECLARATION OF EMERGENCY

1. The Stayton City Council may declare a state of emergency and request emergency services and assistance from local, state, and federal agencies. A declaration of emergency shall be communicated to Marion County pursuant to ORS 401.055(2). (Ord. 874, section 12, 2004)

2. In the event a quorum of the Stayton City Council cannot be assembled within a reasonable time, the authority to declare an emergency is hereby delegated first to the mayor, then to the council president, and then to the city administrator. If the city administrator is unable to act due to absence or incapacity, then the acting city administrator, then the emergency management director is hereby granted the authority to declare an emergency.

3. If the declaration of emergency is made by anyone other than the city council, then the council shall convene as soon as practicable to ratify the state of emergency.

4. The declaration of a state of emergency must include:

    a. A description of the situation and the existing conditions; and

    b. Delineation of the geographic boundaries of the emergency; and

    c. Declaration that all appropriate resources have been expended by the city; and

    d. A request for assistance. (Ord. 708, July 1992)

2.44.1080 VIOLATIONS

The following offenses shall be punishable as misdemeanors by a fine not to exceed Five Hundred Dollars ($500.00) and/or by imprisonment not to exceed ninety (90) days.

1. No person shall willfully obstruct, hinder, or delay any member of the Emergency Management Organization in the enforcement of any lawful rule or regulation

issued pursuant to this section, nor in the performance of any duty required by this section.

2. No person shall wear, carry, or display, without authority, any means of identification as specified by the State Department of Emergency Services and/or which would be likely to mislead a member of the public into believing that such person is a member of the Emergency Management Organization. (Ord. 708, July 1992)

2.44.1090 IMMUNITY FROM PRIVATE LIABILITY

There shall be no liability on the part of any person, partnership, corporation, the State of Oregon, or any political subdivision thereof who owns or maintains any buildings or premises that have been designated by the disaster coordinator as a disaster shelter for any injuries sustained by any person while in or upon said building or premises as a result of the condition of said building or premises or as a result of any act or omission, or in any way arising from the designation of such premises as a shelter provided such person has entered, gone upon, or into said building or premises for the purpose of seeking refuge therein during an emergency; provided, however, that this section shall not apply to the willful act of such owner or occupant or his servants, agents, or employees. This section shall also apply to any practice drill authorized pursuant to this section. (Ord. 708, July 1992)

2.44.2000 SEVERABILITY

If any section, subsection, sentence, clause, phrase, or portion of this section is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portions shall be deemed separate, distinct, and independent provision and shall not affect the validity of the remaining portions of the section. (Ord. 708, July 1992)

TITLE 2. ADMINISTRATION AND PERSONNEL

CHAPTER 2.48

PUBLIC LIBRARY

SECTIONS

2.48.1110 ESTABLISHED

The Stayton Public Library is hereby established. (Ord. 874, section 13, 2004)

2.48.1120 PURPOSE

The purpose of the public library is to provide and make accessible library and information services to persons of all ages who are residents of the Stayton area. (Prior code section 2.421)

2.48.1130 AUTHORITY OF COUNCIL

The council shall have the authority to:

1. Establish, equip, and maintain a public library and to contract with an established public library or with a private society or corporation owning and controlling a secular or nonsectarian library, to provide free use of the library for city residents, and to establish rates for non-resident use under such terms and conditions as may be agreed upon.

2. Contract with one or more units of local government to jointly establish a public library service or share in the use of facilities, under such terms and conditions as may be agreed upon. (Ord. 874, section 14, 2004)

3. Enter into an interstate library agreement pursuant to the Interstate Library Compact as adopted by Oregon law. (See ORS 357.330 to 357.370) (Ord. 874, section 14, 2004)

4. Contract with the trustees of the State Library for assistance in establishing, improving, or extending public library services, under such terms and conditions as may be agreed upon. (Prior code section 2.425)

2.48.1140 ABOLISHING OR WITHDRAWING: PROCEDURE

Once the council has established a public library under the laws of Oregon, it shall not abolish or withdraw support from such library without first holding at least two (2) public hearings on the matter at least ninety (90) days apart. The council shall give public notice of the public hearing in a newspaper of general circulation in the area for two successive weeks at least 30 days prior to the first hearing. (See ORS 357.621) (Prior code section 2.440; Ord. 874, section 15, 2004)

2.48.1150 METHODS OF FINANCING

1. The library operation shall be funded through the budget of the city, receipts from library operations, special tax levies, and donations of real or personal property.

2. The council may levy annually and cause to be collected as other general taxes are collected, a tax upon the taxable property in the city to provide a library fund to be used exclusively to maintain the library.

3. The council may levy and cause to be collected a special tax upon the taxable property in the city or contract bonded indebtedness to provide a public library building fund to be used exclusively to purchase real property for public library purposes and for the erection and equipping of public library buildings, including branch library buildings. (Prior code section 2.435; Ord. 874, section 16, 2004)

2.48.1160 LIBRARY BOARD: ESTABLISHED

There is hereby established a Board of Directors known as the Stayton Public Library Board, which shall oversee the general operation of the public library. (Prior code section 2.430)

2.48.1170 LIBRARY BOARD: MEMBERSHIP, TERMS OF OFFICE

1. The library board shall consist of five (5) members who shall serve from July 1st in the year of their appointment. Members are appointed in accordance with the City of Stayton Rules of Council. (Ord. 783, April 22, 1998)

2. One member of the board shall initially hold office for one (1) year, one member for two (2) years, one member for three (3) years, and two members for four (4) years. At the expiration of any member's term, the mayor shall appoint a new member or may reappoint a member for a four-year term. If a vacancy occurs, the mayor shall appoint a new member for the unexpired term.

3. No person shall hold appointment as a member for more than two (2) full consecutive terms, but any person may be appointed again to the board after an interval of one (1) year.

4. Vacancies and Removal. Appointment to fill vacancies shall be for the remainder of the unexpired term. A member may be removed by the mayor and council for misconduct or misperformance of duty. A member who is absent for three (3) consecutive meetings without an excused absence approved by the library board shall be presumed to be in nonperformance of duty and the mayor and city council shall declare the position vacant. Recommendations for misconduct or nonperformance of duty shall be made in writing from the library board to the mayor and council.

5. One member of the library board may be appointed at large from the area served by the Stayton Public Library. (Ord. 658, section 1[part], 1989: Ord. 601, section 1, 1984; Ord. 597, 1984: prior code section 2.431)

2.48.1180 LIBRARY BOARD: POWERS AND DUTIES

The duties and powers of the library board shall be as follows:

1. Formulate a library development plan for the Stayton Public Library which shall include at a minimum an evaluation of current facilities, equipment, collection, programs, staffing and service levels and provides a mission statement and long term goals and objectives for the development and improvement of the library including facilities, collection, equipment, programs, staffing, and service levels.

2. Annually adopt updated goals and objectives for the Stayton Public Library and the Library Board of Directors. Prior to January 1st of each year, the Library Director and Library Board shall prepare and submit to the City Administrator and City Council an annual report detailing progress made in accomplishing the adopted goals for the prior year.

3. Approve an annual report on the operation of the Stayton Public Library which shall, at a minimum, comply with the requirements of the Oregon State Library annual reporting requirements.

4. Make recommendations to the City Council for the budget (Ord. 1070, December 16,2024), staffing levels, fees, facility improvements, contracts for library services, fundraising, program and service levels the Library Board deems necessary for the operation and improvement of the library.

5. Review and approve policies and procedures for the operation of the library.

6. Accept any real or personal property or funds donated to the library, on behalf of the City, and recommend to the council the method of control or disposal of such property, except that each donation shall be administered in accordance with its terms, and all property or funds shall be held in the name of the City of Stayton for library purposes only.

7. Enter into such other activities as the council may assign. (Ord. 695, December 1991)

2.48.1190 LIBRARY BOARD: OFFICERS

At its first annual meeting, the library board shall elect a president, a vice president, and a secretary from among its members who shall serve for a term of one (1) year. The Board may also elect members to fill any additional positions as deemed necessary to assist in the operations of the board.

2.48.1200 LIBRARY BOARD: ANNUAL REPORTS

The library board shall make an annual report to the State Library and to the council on a form supplied by the State Library. (Prior code section 2.434)

2.48.1210 LIBRARY DIRECTOR: APPOINTMENT

1. The library director shall be appointed by the city administrator, who shall oversee the director's performance in accordance with provisions established in code section 2.52.1360.

2. Library Board participation in the selection of the library director is important. The selection process for library director shall include participation of a representative of the Library Board in the interview process. (Ord. 695, December 1991)

2.48.1220 LIBRARY DIRECTOR: DUTIES AND RESPONSIBILITIES

The duties and responsibilities of the library director shall be as follows:

1. Serves as the primary staff person to the Library Board. Provide management assistance and professional expertise to assist the Library Board in carrying out the mission of the Stayton Library, developing annual goals and objectives, developing policies and procedures for the operation of the library, preparing reports and information materials for the Board and assisting the Library Board in performing all their duties.

2. Serves as secretary to the Library Board and ensures that the Library Board complies with all requirements of Oregon Open Meetings Law and Oregon Public Records Law. (See Oregon *Attorney General's Public Records and Meetings Manual*) (Ord. 874, section 17, 2004)

3. Manage the materials collection; responsible for materials acquisition and selection including the organizing and processing of such materials.

4. Oversee the circulation services. Maintain overdue process and statistical record-keeping.

5. Function as reference source by providing information on inter-library loans and facilitate informational requests concerning other sources of materials.

6. Write a bi-monthly book review column for newspaper distribution and press releases, serve as a liaison to local organizations to coordinate community-wide events, develop appropriate library activities for adults and children.

7. Supervise all library personnel activities, including performance evaluations, selection, scheduling, and disciplining when required.

8. Coordinate the library's participation in the Chemeketa Cooperative Regional Library Service (CCRLS), attend Polk-Yamhill-Marion Library Association (PYM) meetings as required.

9. Develop and recommend an annual library budget to the city administrator. Review the proposed budget with the Library Board. May assist in the presentation of the budget to the budget committee and City Council.

10. Provide written reports and make oral presentations to the City Council regarding library business and activities as required, with informational copies provided to the Library Board.

11. Submit grant applications in accordance with Library Board policy and City Council policy.

12. Expend city funds for library purposes in accordance with the approved library budget and under the supervision of the City Administrator.

13. Attend, or designate a library representative to attend, the Friends of the Stayton Library meetings to provide the Friends with information on current programs, activities and services of the library or attends Friends activities upon request. Request volunteer, financial or other assistance from the Friends when needed to support library programs and activities. Always recognizes that the Friends of the Stayton Library is not a part of city government, but is an independent, non-profit organization.

14. Perform other related duties as assigned by the City Administrator. (Ord. 695, December, 1991)

TITLE 2. ADMINISTRATION AND PERSONNEL

CHAPTER 2.52

PERSONNEL

SECTIONS

2.52.010 CITY OFFICERS DESIGNATED

For the purpose of this Chapter, council members, the mayor, the municipal judge, and the city administrator and the city attorney are deemed to be the officers of the City. (Ord. 942, March 2012) (Ord. 658, section 1[part], 1989: prior code section 2.260)

2.52.020 CITY EMPLOYEES

For the limited purpose of this Chapter, the police chief and the holder of any other position not set out in section 2.52.010 are each deemed to be an employee of the City, and not an officer thereof. (Ord. 942, March 2012) (Ord. 658, section 1[part], 1989: prior code section 2.262)

2.52.030 APPOINTMENT OF ADDITIONAL OFFICERS

Pursuant to the City Charter, additional officers of the City may be appointed as the council deems necessary. Each of these other officers shall be appointed and may be removed by the mayor with the consent of the majority of the council. The council may combine any two or more appointive city offices. The council may designate any appointive officer to supervise any other appointive officers, except the municipal judge in the exercise of the judicial functions. (Ord. 942, March 2012) (Ord. 658, section 1[part], 1989: prior code section 2.263)

2.52.040 FIDELITY BONDS

1. All city employees and officers shall be covered by an insurance policy which provides at least $100,000 fidelity bond for each employee or officer engaged in the good faith performance of the job.

2. The bonds furnished in accordance with subsection 1. above shall be furnished at the City's sole expense. (Ord. 942, March 2012) (Ord. 658, section 1[part], 1989: prior code section 2.264)

2.52.050 QUALIFICATIONS

Employees of the city are not required to meet the qualifications of officers of the city and shall meet only those qualifications as the council may establish. (Ord. 942, March 2012) (Ord. 658, section 1[part], 1989: prior code section 2.265)

2.52.060 PERSONNEL MANUAL

1. A personnel manual outlining personnel rules, policies, and procedures for the city shall be adopted by separate resolution. The council may, from time to time, review the manual and develop new or modified policies and programs. A copy of the personnel manual shall be kept in the office of the city administrator. (Ord. 942, March 2012) (Ord. 658, section 1[part], 1989: prior code section 2.268)

2. The council by resolution will adopt rules governing compensation, recruitment, selection, promotion, transfer, demotion, suspension, layoff, and dismissal of city employees based on merit and fitness. (Ord. 942, March 2012) (Ord. 917, January 2010)

2.52.070 ADMINISTRATION AUTHORITY

Subject to council review, the personnel policies and programs established by this Chapter shall be administered by the city administrator who will be responsible for carrying out the provisions of this chapter. (Ord. 942, March 2012) (Ord. 568, section 1[part], 1989: prior code section 2.270)

2.52.080 DISCRIMINATION PROHIBITED

The City will ensure that all persons are entitled to equal employment opportunities and benefits regardless of age, race, religion, color, sex, marital status, political affiliations, national origin, or membership in any other classification protected under federal or Oregon law. Discrimination on the basis of mental or physical disability is also prohibited except where a particular provision requires a bona fide occupational qualification. The City will take affirmative action to ensure that the City work force is representative of the work force in the area. The City will comply with federal and state statutes on equal employment opportunities. (Ord. 942, March 2012)

2.52.090 CONTRACTS FOR PROFESSIONAL SERVICES

The council may contract or direct the city administrator to contract with qualified personnel for professional services. (Ord. 942, March 2012) (Ord. 658, section 1[part], 1989: prior code section 2.284)

2.52.100 AUTHORITY TO CONDUCT BACKGROUND CHECKS

1. For the purpose of this Chapter, the prospective employee, volunteers, community service workers, city contractors and applicants for City licenses will all be referred to as "applicant."

2. An offer of employment to all potential applicants may be conditioned on the prior written consent to a check of the applicant's background.

3. The background check will involve contacting accessing sources of information to request, read, review, and photocopy the information the City deems necessary to lawfully investigate the applicant's ability to meet the requirements of the position. This may include, but is not limited to; previous employers, education, residential requirements, achievements, performance, attendance, disciplinary issues, employment history, driving record, professional licensing, criminal conviction information, and sex offender information.

4. A criminal conviction history may be checked through the records maintained in but not limited to the Oregon State Police Law Enforcement Data System (OSP LEDS), other states' criminal conviction data systems, state sex offender registration data bases, national sex offender registries, and parole and probation offices.

5. Applicants will be asked to sign a written consent form authorizing the City to conduct a background check. Through its Police Department, the City may make a criminal offender record check through the OSP; and will provide written notice from the City that a criminal offender record check may be made through the OSP LEDS.

6. The consent form shall include: Notice of the manner in which the individual may be informed of the procedures adopted under Oregon Revised Statute (ORS) for challenging inaccurate criminal conviction history information.

7. The City's Human Resource Department will maintain the completed criminal conviction history consent form and will request the check.

8. The City of Stayton Police Department will conduct the check on the prospective applicant. The Stayton Police Department will report to the City's Human Resource Department that the record indicates "no criminal conviction record" or "criminal conviction record."

9. If the applicant's record is reported as "criminal conviction record," the City's Human Resource Department will, in accordance with Oregon Administrative Rules (OAR), request a written criminal history report from the Oregon State Police Identification Services Section. The City's Human Resource Department will make the written conviction record available to the selecting Department Head for consideration and will advise the Department Head in making the hiring decision.

10. The written criminal conviction history record on persons not hired or appointed will be retained in accordance with the OAR record retention requirements and thereafter will be destroyed by shredding.

11. An applicant who is disqualified from employment or appointment with the City, based on the applicant's criminal conviction history shall be informed of the basis of the disqualification and may appeal the disqualification only on the grounds that the information is incorrect. Any such appeal must be in writing, must state with particularity the grounds for the appeal and must be received by the City no later than seven (7) calendar days from the date of notice to the applicant of disqualification to be considered.

12. The criminal conviction history record of applicants with a criminal conviction history, hired or appointed will become a part of the confidential personnel file of the applicant. Access to confidential personnel files is limited to authorized persons who have an official need to access such files as sanctioned by law or regulation. Presence of a criminal conviction history will not cause an automatic rejection of the application, but any convictions will be considered. Each application will be evaluated on a case-by-case basis, taking into account the applicant's qualifications, the requirements of the particular job or volunteer post applied for and the results of the criminal conviction history check. Factors such as the age of the offender at the time of the offense, length of time since the conviction, the type of offense and subsequent rehabilitation, the public sensitivity of the position under consideration shall be taken into account in evaluating a criminal conviction history report.

13. Hiring an applicant with a criminal conviction history will require approval of the selecting Department Head and the approval of the City Administrator after full

disclosure and consideration of the criminal history of the applicant. Nothing in this Chapter shall prevent the City of Stayton from denying an applicant's application on a basis other than criminal conviction history, or lack of such history, of the applicant. (Ord. 942, March 2012)

2.52.110 SEVERABILITY.

Invalidity of a section or a part of a section of this Chapter shall not affect the validity of the remaining section or parts of sections. (Ord. 942, March 2012)

TITLE 2. ADMINISTRATION AND PERSONNEL

CHAPTER 2.56

RECORDS MANAGEMENT

SECTIONS

2.56.1400 RETENTION, STORAGE, AND DESTRUCTION OF RECORDS

The city administrator is authorized to collect, retain, store, and destroy all papers, documents, and records received in all city departments in accordance with the guidelines set out in the "Records Management Manual for Oregon Cities," prepared by the Archives Division, Office of the Oregon Secretary of State, as now or hereafter constituted. (Ord. 658, section 1[part], 1989: prior code section 2.130)

TITLE 2. ADMINISTRATION AND PERSONNEL

CHAPTER 2.60

ELECTIONS

SECTIONS

2.60.1500 REGULAR ELECTIONS

1. Regular city elections shall be conducted at the same time and places as general state elections.

2. The conduct of all regular and special elections shall be in accordance with all applicable provisions of the city charter and state election laws. (Ord. 658, section 1[part], 1989: prior code section 2.150)

2.60.1510 SPECIAL ELECTIONS

The council shall provide the time, manner, and means for holding any special election. The Recorder shall give at least ten (10) days' notice of each special election in the manner provided by the action of the council ordering the election. (Ord. 658, section 1[part], 1989: prior code section 2.151)

2.60.1520 POLL BOOK

The poll book to be used at city elections shall be the form provided by the county clerk of Marion County, Oregon. (Ord. 658, section 1[part], 1989: prior code section 2.154)

2.60.1530 NOMINATION AND ELECTION OF MAYOR AND COUNCIL

1. The mayor and each councilor must be a qualified elector under state law, and reside within the city for at least one year immediately before election or appointment to office.
(Ord. 917, January 2010)

2. Nominating Petition

   a. A petition specifying the office sought shall be signed by the nominee and by not fewer than ten qualified electors resident in the city of Stayton.

   b. No elector shall sign more than one petition for each office to be filled at the election, or his signature will be valid only on the first sufficient petition filed for the office.

c. To each page of the nominating petition shall be appended an affidavit indicating:

i. The name of the person circulating the petition;

ii. The number of qualified electors whose signatures appear on that page;

iii. A signed statement by the person circulating the petition that each signature on that page was made in his presence by the person whose signature it is purported to be.

iv. The address, indicated by its street, street number, and any other relevant designation, of each person whose signature appears on that page.

d. No nomination papers comprising a petition shall be accepted before 110 days prior to the election.

e. All nomination papers comprising a petition shall be assembled as one document and shall be filed with the city recorder not less than seventy days prior to the election.

f. Prior to submittal of the petition to the city, all signatures shall be certified by the Marion County Elections Division.

g. The city recorder shall make a record of the exact time and by whom each petition was filed. The address and phone number of the petitioner shall also be recorded.

3. If the petition is insufficient in any particular, the city shall return it immediately to the petitioner, certifying in writing in what manner the petition is insufficient.

4. The petition may be amended and filed again as a new petition, or a different petition for the same candidate may be filed, no later than seventy days preceding the election.

5. When a petition has been found sufficient and is accepted by the city recorder, the city recorder shall cause the nominee's name to be printed on the ballot.

6. The nominating petition for a successful candidate at an election shall be preserved by the city recorder until the term of office for which the candidate is elected has expired (Ord. 712, § 3, February 1993).

TITLE 2. ADMINISTRATION AND PERSONNEL

CHAPTER 2.68

CAPITAL IMPROVEMENTS ADVISORY COMMITTEE

SECTIONS

2.68.1710 CREATED, PURPOSE, EXPENDITURES

1. There is created a capital improvements advisory committee for the city for the purpose of annually reviewing, evaluating, and prioritizing pending public facilities projects and making recommendations to the city council regarding the capital improvements program which implements the master utilities plan.

2. The advisory committee shall have no authority to make expenditures on behalf of the city or to obligate the city for the payment of any sums of money. (Ord. 631, section 1[part], 1987: prior codes sections 2.380, 2.397)

2.68.17200 DEFINITIONS

As used in this chapter:

1. **CAPITAL IMPROVEMENTS PROGRAM:** Is a phased implementation program based on the master utilities plan. Timing provisions for the public utilities are prioritized by a five-year phased program which is updated on a yearly basis and are consistent with the comprehensive planned project growth estimates. Planned revenues and expenditures are also projected over the five-year phased program. The capital improvements program includes the master utilities fee schedule. (Ord. 631, section 1[part], 1987: prior code section 2.385[part])

2.68.1730 MASTER UTILITIES FEE SCHEDULE: GENERALLY

The capital improvements advisory committee shall annually review and recommend to the city council a comprehensive schedule of fees and charges in connection with the funding of the capital improvements program. The fees and charges shall include, but not be limited to:

1. Systems development fees;
2. User fees
3. Connections fees, water;
4. Connections fees, sewer;

5. Permit charges. (Ord. 631, section 1[part], 1987: prior code section 2.385[part])

2.68.1740 MASTER UTILITIES PLAN: GENERALLY

The master utilities plan, a support document to the comprehensive plan for the city, describes water, sanitary sewer, and storm sewer (exclusive of the Mill Creek Flood Basin) utilities which are to support the land uses designated within the urban growth boundary by the comprehensive plan as required by OAR 660-11-045. The master utilities plan contains the following items:

1. An inventory and general assessment of the condition of all the significant public utility systems which support the land uses designated in the comprehensive plan;

2. A list of the significant public utility projects which are to support the land uses designated by the comprehensive plan. Public utility project descriptions or specifications of these projects as necessary;

3. Rough cost estimates of each public utility project;

4. A map or written description of each public utility project's general location or service area;

5. Policy statements regarding the urban growth management and identifying the city as the provide of the public utility system;

6. An estimate of when each utility project will be needed. (Ord. 631, section 1[part], 1987: prior code section 2.385[part]).

TITLE 2. ADMINISTRATION AND PERSONNEL

CHAPTER 2.72

INTERGOVERNMENTAL AGREEMENTS

SECTIONS

2.72.010 CREATION

1. It is the intent of the Stayton City Council to create, along with the other parties to the agreement, an intergovernmental entity known as Mid-Willamette Valley Council of Governments

2. The effective date, specification of public purposes for which the MWVCOG is created, and the powers, duties and functions of the MWVCOG are as stated in the Agreement attached hereto, and by this reference, incorporated herein.

3. The said Agreement is hereby ratified and the Mayor and City Administrator are hereby authorized and directed to sign the same on behalf of the City of Stayton. (Ord. 804, August, 1999)

TITLE 3.

REVENUE AND FINANCE

CHAPTERS

TITLE 3. REVENUE AND FINANCE

CHAPTER 3.04

STAYTON PUBLIC CONTRACTING CODE

SECTIONS

3.04.010 POLICY

A. Short Title. This Chapter may be cited as the Stayton Public Contracting Code.

B. Purpose of Public Contracting Code. It is the policy of the City of Stayton in adopting the Stayton Public Contracting Code to utilize public contracting practices and methods that maximize the efficient use of public resources and the purchasing power of public funds by:

(1) Promoting impartial and open competition;

(2) Using solicitation materials that are complete and contain a clear statement of contract specifications and requirements; and,

(3) Taking full advantage of evolving procurement methods that suit the contracting needs of the City of Stayton as they emerge within various industries.

C. Interpretation of the Stayton Public Contracting Code. In furtherance of the purpose of the objectives set forth in subsection B, it is the City of Stayton's intent that the Stayton Public Contracting Code be interpreted to authorize the full use of all contracting powers and authorities described in ORS Chapters 279A, 279B and 279C.

3.04.020 APPLICATION OF PUBLIC CONTRACTING CODE

In accordance with ORS 279A.025, the Stayton Public Contracting Code and the Oregon Public Contracting Code do not apply to the following classes of contracts:

A. Between Governments. Contracts between the City of Stayton and a public body or agency of the State of Oregon or its political subdivisions, or between the City of Stayton and an agency of the federal government.

B. Grants. A grant contract is an agreement under which the City of Stayton is either a grantee or a grantor of moneys, property or other assistance, including loans, loan guarantees, credit enhancements, gifts, bequests, commodities or other assets, for the purpose of supporting or stimulating a program or activity of the grantee and in which no substantial involvement by the grantor is anticipated in the program or activity other than involvement associated with monitoring compliance with the grant conditions. The making or receiving of a grant is not a public contract subject to the Oregon Public Contracting Code; however, any grant made by City of Stayton for the purpose of constructing a public improvement or public works project shall impose conditions on the grantee that ensure that expenditures of the grant to design or construct the public improvement or public works project are made in accordance with the Oregon Public Contracting Code and the Stayton Public Contracting Code.

C. Legal Witnesses and Consultants. Contracts for professional or expert witnesses or consultants to provide services or testimony relating to existing or potential litigation or legal matters in which the City of Stayton is or may become interested.

D. Real Property. Acquisitions or disposals of real property or interests in real property.

E. Textbooks. Contracts for the procurement or distribution of textbooks.

F. Oregon Corrections Enterprises. Procurements from an Oregon corrections enterprises program.

G. Finance. Contracts, agreements or other documents entered into, issued or established in connection with:

(1) The incurring of debt by the City of Stayton, including any associated contracts, agreements or other documents, regardless of whether the obligations that the contracts, agreements or other documents establish are general, special or limited;

(2) The making of program loans and similar extensions or advances of funds, aid or assistance by the City of Stayton to a public or private person for the purpose of carrying out, promoting or sustaining activities or programs authorized by law

other than for the construction of public works or public improvements;

(3) The investment of funds by the City of Stayton as authorized by law; or,

(4) Banking, money management or other predominantly financial transactions of the City of Stayton that, by their character, cannot practically be established under the competitive contractor selection procedures, based upon the findings of the City Manager. (Ord. 1071, December 2, 2024)

H. Employee Benefits. Contracts for employee benefit plans as provided in ORS 243.105(1), 243.125 (4), 243.221, 243.275, 243.291, 243.303 and 243.565, or in the Stayton Municipal Code.

I. Exempt Under State Laws. Any other public contracting specifically exempted from the Oregon Public Contracting Code by any other provision of law.

J. Federal Law. Except as otherwise expressly provided in ORS 279C.800 to 279C.870, applicable federal statutes and regulations govern when federal funds are involved and the federal statutes or regulations conflict with any provision of the Oregon Public Contracting Code or the Stayton Public Contracting Code, or require additional conditions in public contracts not authorized by the Oregon Public Contracting Code or the Stayton Public Contracting Code.

3.04.030 AUTHORITY AND REGULATION BY STAYTON CITY COUNCIL

Except as expressly delegated under this Chapter, the Stayton City Council reserves to itself the exercise of all of the duties and authority of a Contract Review Board and a contracting agency under state law, including, but not limited to, the power and authority to:

A. Solicitation Methods Applicable to Contracts. Approve the use of contracting methods and exemptions from contracting methods for a specific contract or certain classes of contracts;

B. Brand Name Specifications. Exempt the use of brand name specifications for public improvement contracts;

C. Waiver of Performance and Payment Bonds. Approve the partial or complete waiver of the requirement for the delivery of a performance or payment bond for construction of a public improvement, other than in cases of emergencies;

D. Electronic Advertisement of Public Improvement Contracts. Authorize the use of electronic advertisements for public improvement contracts in lieu of publication in a newspaper of general circulation;

E. Appeals of Debarment and Prequalification Decisions. Hear properly filed appeals of the City Manager's determination of debarment, or concerning prequalification; (Ord. 1071, December 2, 2024)

F. Rulemaking. Adopt contracting rules under ORS 279A.065 and ORS 279A.070 including, without limitation, rules for the procurement, management, disposal and control of goods, services, personal services and public improvements; and

G. Award. Award all contracts that exceed the authority of the City Manager. (Ord. 1071, December 2, 2024)

3.04.040 MODEL RULES

The Model Rules adopted by the Oregon Attorney General under ORS 279A.065 are adopted as supplemental to this Chapter only to the extent that they do not conflict with the public contracting code adopted by Stayton City Council.

3.04.050 AUTHORITY OF CITY MANAGER

A. General Authority. The Stayton City Manager is hereby authorized to issue all solicitations and to award all City of Stayton contracts for which the contract price does not exceed $150,000. Subject to the provisions of this Chapter, the City Manager may adopt and amend all solicitation materials, contracts and forms required or permitted to be adopted by contracting agencies under the Oregon Public Contracting Code or otherwise convenient for the City of Stayton's contracting needs. The City Manager shall hear all solicitation and award protests. (Ord. 1071, December 2, 2024)

B. Solicitation Preferences. When possible, the City Manager shall use solicitation documents and evaluation criteria that: (Ord. 1071, December 2, 2024)

(1) Give preference to goods and services that have been manufactured or produced in the State of Oregon if price, fitness, availability and quality are otherwise equal; and,

(2) Give preference to goods that are certified to be made from recycled products when such goods are available, can be substituted for non-recycled products without a loss in quality, and the cost of goods made from recycled products is not significantly more than the cost of goods made from non-recycled products.

C. Delegation of City Manager's Authority. Any of the responsibilities or authorities of the City Manager under this Chapter may be delegated by administrative directive. (Ord. 1071, December 2, 2024)

D. Mandatory Review of ORS and Model Rules. Whenever the Oregon State Legislative Assembly enacts laws that amend the provisions of the Oregon Public Contracting Code and/or cause the Oregon Attorney General to modify its Model Rules, the City Manager shall review the Stayton Public Contracting Code and recommend to the Stayton City Council any modifications required to ensure compliance with statutory or rule changes. (Ord. 1071, December 2, 2024)

3.04.060 DEFINITIONS

The following terms used in this Chapter shall have the meanings set forth below.

AWARD: means the selection of a person to provide goods, services or public improvements under a public contract. The award of a contract is not binding on the City of Stayton until the contract is executed and delivered by City of Stayton.

BID: means a binding, sealed, written offer to provide goods, services or public improvements for a specified price or prices.

CITY MANAGER: means the Stayton City Council's duly appointed City Manager who may designate respective duties under this Chapter to a Purchasing Manager or a Solicitation Agent, defined herein, as deemed appropriate. (Ord. 1071, December 2, 2024)

CONCESSION AGREEMENT: means a contract that authorizes and requires a private entity or individual to promote or sell, for its own business purposes, specified types of goods or services from real property owned or managed by the City of Stayton, and under which the concessionaire makes payments to the City of Stayton based, at least in part, on the concessionaire's revenues or sales. The term "concession agreement" does not include a mere rental agreement, license or lease for the use of premises.

CONTRACT PRICE: means the total amount paid or to be paid under a contract, including any approved alternates, and any fully executed change orders or amendments.

CONTRACT REVIEW BOARD OR LOCAL CONTRACT REVIEW BOARD: means the Stayton City Council.

COOPERATIVE PROCUREMENT: means a procurement conducted by or on behalf of one or more contracting agencies.

DEBARMENT: means a declaration by the City Manager under ORS 279B.130 or ORS 279C.440 that prohibits a potential contractor from competing for the City of Stayton's public contracts for a prescribed period of time. (Ord. 1071, December 2, 2024)

DISPOSAL: means any arrangement for the transfer of property by the City of Stayton under which the City of Stayton relinquishes ownership.
EMERGENCY: means circumstances that create a substantial risk of loss, damage or interruption of services or a substantial threat to property, public health, welfare or safety; and require prompt execution of a contract to remedy the condition.

FINDINGS: are the statements of fact that provide justification for a determination. Findings may include, but are not limited to, information regarding operation, budget and financial data; public benefits; cost savings; competition in public contracts; quality and aesthetic considerations, value engineering; specialized expertise needed; public safety; market conditions; technical complexity; availability, performance and funding sources.

GOODS: means any item or combination of supplies, equipment, materials or other personal property, including any tangible, intangible and intellectual property and rights and licenses in relation thereto.

INFORMAL SOLICITATION: means a solicitation made in accordance with the Stayton Public Contracting Code to a limited number of potential contractors, in which the Solicitation Agent attempts to obtain at least three written quotes or proposals.

INVITATION TO BID: means a publicly advertised request for competitive sealed bids.

MODEL RULES: means the public contracting rules adopted by the Oregon Attorney General pursuant to ORS 279A.065.

OFFEROR: means a person who submits a bid, quote or proposal to enter into a public contract with the City of Stayton.

OREGON PUBLIC CONTRACTING CODE: means ORS Chapters 279A, 279B and 279C.

PERSON: means a natural person or any other private or governmental entity, having the legal capacity to enter into a binding contract.

PROPOSAL: means a binding offer to provide goods, services or public improvements with the understanding that acceptance will depend on the evaluation of factors other than, or in addition to, price. A proposal may be made in response to a request for proposals or under an informal solicitation.

PERSONAL SERVICES CONTRACT: means a contract with an independent contractor predominantly for services that require special training or certification, skill, technical, creative, professional or communication skills or talents, unique and specialized knowledge, or the exercise of judgment skills, and for which the quality of the service depends on

attributes that are unique to the service provider. Such services include, but are not limited to, the services of architects, engineers, land surveyors, attorneys, auditors and other licensed professionals, artists, designers, computer programmers, performers, consultants and property managers. The City Manager shall have discretion to determine whether additional types of services not specifically mentioned in this paragraph fit within the definition of personal services. (Ord. 1071, December 2, 2024)

PUBLIC CONTRACT: means a sale or other disposal, or a purchase, lease, rental or other acquisition, by the City of Stayton of personal property, services, including personal services, public improvements, public works, minor alterations, or ordinary repair or maintenance necessary to preserve a public improvement.

PUBLIC IMPROVEMENT: means a project for construction, reconstruction or major renovation on real property by or for the City of Stayton. "Public improvement" does not include:

(1) Projects for which no funds of the City of Stayton are directly or indirectly used, except for participation that is incidental or related primarily to project design or inspection; or,

(2) Emergency work, minor alteration, ordinary repair or maintenance necessary to preserve a public improvement.

PURCHASING MANAGER: means with respect to a particular procurement, the City Manager, or designee, performing procurement duties pursuant to the Stayton Public Contracting Code. (Ord. 1071, December 2, 2024)

QUALIFIED POOL: means a pool of vendors who are pre-qualified to compete for the award of contracts for certain types of contracts or to provide certain types of services.

QUOTE: means a price offer made in response to an informal or qualified pool solicitation to provide goods, services or public improvements.

REQUEST FOR PROPOSALS (RFP): means a publicly advertised request for sealed competitive proposals.

SSERVICES: means and includes all types of services (including construction labor) other than personal services.

SOLICITATION: means an invitation to one or more prospective contractors to submit a bid, proposal, quote, statement of qualifications or letter of interest to the City of Stayton with respect to a proposed project, procurement or other contracting opportunity. The word "solicitation" also refers to the process by which the City of Stayton requests, receives and

evaluates potential contractors and awards public contracts.

SOLICITATION AGENT: means with respect to a particular solicitation, the City Manager, or designee, conducting the solicitation and making an award. (Ord. 1071, December 2, 2024)

SOLICITATION DOCUMENTS: means all informational materials issued by the City of Stayton for a solicitation, including, but not limited to RFP, advertisements, instructions, submission requirements and schedules, award criteria, contract terms and specifications, and all laws, regulations and documents incorporated by reference.

STANDARDS OF RESPONSIBILITY: means the qualifications of eligibility for award of a public contract. An offeror meets the standards of responsibility if the offeror has:

(1) Available the appropriate financial, material, equipment, facility and personnel resources and expertise, or ability to obtain the resources and expertise, necessary to indicate the capability of the offeror to meet all contractual responsibilities;

(2) A satisfactory record of performance. The Solicitation Agent shall document the record of performance of an offeror if the Solicitation Agent finds the offeror to be not responsible under this paragraph;

(3) A satisfactory record of integrity. The Solicitation Agent shall document the record of integrity of an offeror if the Solicitation Agent finds the offeror to be not responsible under this paragraph;

(4) Qualified legally to contract with the City of Stayton;

(5) Supplied all necessary information in connection with the inquiry concerning responsibility. If an offeror fails to promptly supply information requested by the Solicitation Agent concerning responsibility, the Solicitation Agent shall base the determination of responsibility upon any available information or may find the offeror non-responsible; and,

(6) Not been debarred by the City of Stayton, and, in the case of public improvement contracts, has not been listed by the Oregon Construction Contractors Board as a contractor not qualified to hold a public improvement contract.

SURPLUS PROPERTY: means personal property owned by the City of Stayton which is no longer needed for use by the department to which such property has been assigned.

3.04.070 PROCESS FOR APPROVAL OF SPECIAL SOLICITATION METHODS AND EXEMPTIONS

A. Authority of Stayton City Council. In its capacity as Contract Review Board for the City of Stayton, the Stayton City Council, upon its own initiative, or upon request of the City Manager, may create special selection, evaluation and award procedures for, or may exempt from competition, the award of a specific contract or class of contracts as provided in this section 3.04.070. (Ord. 1071, December 2, 2024)

B. Basis for Approval. The approval of a special solicitation method or exemption from competition must be based upon a record before the Stayton City Council that contains the following:

(1) The nature of the contract or class of contracts for which the special solicitation or exemption is requested;

(2) The estimated contract price or cost of the project, if relevant;

(3) Findings to support the substantial cost savings, enhancement in quality or performance or other public benefit anticipated by the proposed selection method or exemption from competitive solicitation;

(4) Findings to support the reason that approval of the request would be unlikely to encourage favoritism or diminish competition for the public contract or class of public contracts, or would otherwise substantially promote the public interest in a manner that could not practicably be realized by complying with the solicitation requirements that would otherwise be applicable under this Chapter;

(5) A description of the proposed alternative contracting methods to be employed;

(6) The estimated date by which it would be necessary to let the contract(s); and,

(7) In making a determination regarding a special selection method, the Stayton City Council may consider the type, cost, amount of the contract or class of contracts, number of persons available to make offers, and such other factors as it may deem appropriate.

C. Hearing

(1) The City of Stayton shall approve the special solicitation or exemption after a public hearing before the Stayton City Council following notice by publication in at least one newspaper of general circulation in the City of Stayton area.

(2) At the public hearing, the City of Stayton shall offer an opportunity for the public and any interested party to appear and present comment.

(3) The Stayton City Council will consider the findings and may approve the exemption as proposed or as modified by the Stayton City Council after providing an opportunity for public comment.

D. Special Requirements for Public Improvement Contracts

(1) Notification of the public hearing for exemption of a public improvement contract, or class of public improvement contracts, shall be published in a trade newspaper of general statewide circulation at least 14 days prior to the hearing.

(2) The notice shall state that the public hearing is for the purpose of taking comments on the City of Stayton's draft findings for an exemption from the standard solicitation method. At the time of the notice, copies of the draft findings shall be made available to the public.

E. Commencement of Solicitation Prior to Approval. A solicitation may be issued prior to the approval of a special exemption under this section 3.04.070, provided that the closing of the solicitation may not be earlier than five days after the date of the hearing at which the Stayton City Council approves the exemption. If the Stayton City Council fails to approve a requested exemption, or requires the use of a solicitation procedure other than the procedures described in the issued solicitation documents, the issued solicitation may either be modified by addendum, or cancelled.

3.04.080 SOLICITATION METHODS FOR CLASSES OF CONTRACTS

The following classes of public contracts and the methods that are approved for the award of each of the classes are hereby established by the Stayton City Council.

A. Purchases from Nonprofit Agencies for Disabled Individuals. The City of Stayton shall give a preference to goods, services and public improvements available from qualified nonprofit agencies for disabled individuals in accordance with the provisions of ORS 279.835 through 279.850.

B. Public Improvement Contracts

(1) Any Public Improvement. Unless otherwise provided in this Chapter or approved for a special exemption, public improvement contracts in any amount may be issued only under an invitation to bid.

(2) Non-Transportation Public Improvements Up to $100,000. Public improvement contracts other than contracts for a highway, bridge or other transportation projects for which the estimated contract price does not exceed $100,000, may be awarded using an informal solicitation for quotes.

(3) Transportation Public Improvements Up to $50,000. Contracts for which the estimated contract price does not exceed $50,000 for highways, bridges or other transportation projects may be awarded using an informal solicitation for quotes.

(4) City of Stayton-Funded, Privately-Constructed Public Improvements. The City of Stayton may contribute funding to a privately-constructed public improvement project without subjecting the project to competitive solicitation requirements if all of the following conditions are met with respect to the entire public improvement project:

(a) The City of Stayton's contribution to the project may not exceed 25% of the total cost of the project;

(b) The City of Stayton must comply with all applicable laws concerning the reporting of the project to the Bureau of Labor and Industries as a public works project;

(c) The general contractor for the project must agree in writing to comply with all applicable laws concerning reporting and payment of prevailing wages for the project;

(d) The funds contributed to the project may not provide a pecuniary benefit to the owner of the development for which the project is being constructed, other than benefits that are shared by all members of the community;

(e) The performance of the general contractor and the payment of labor for the project must be secured by performance and payment bonds or other cash-equivalent security that is acceptable to the City Manager to protect the City of Stayton against defective performance and claims for payment; and, (Ord. 1071, December 2, 2024)

(f) The contract for construction of the project must be amended, as necessary, to require the general contractor to maintain adequate workers' compensation and liability insurance and to protect and provide indemnification to the City of Stayton for all claims for payment, injury or property damage arising from or related to the construction of the project.

C. Personal Services Contracts

(1) Any Personal Services Contract. Except as provided herein, personal services contracts in any amount may be awarded under a publicly advertised request for competitive sealed proposals.

(2) Personal Service Contracts Not Exceeding $250,000. Contracts for personal services for which the estimated contract price does not exceed $250,000 may be awarded using an informal solicitation for proposals as provided in Section 3.04.090 hereof. (Ord. 1071, December 2, 2024)

(3) $75,000 Award from Qualified Pool. Contracts for personal services for which the estimated contract price does not exceed $75,000 may be awarded by direct appointment without competition from a Qualified Pool.

(4) Personal Service Contracts Not Exceeding $25,000 Per Year. Contracts for which the Solicitation Agent estimates that payments will not exceed $25,000 in any fiscal year or $150,000 over the full term, including optional renewals, may be awarded under any method deemed in the City of Stayton's best interest by the Solicitation Agent, including by direct appointment. (Ord. 1071, December 2, 2024)

(5) Personal Service Contracts for Continuation of Work. Contracts of not more than $150,000 for the continuation of work by a contractor who performed preliminary studies, analysis or planning for the work under a prior contract may be awarded without competition if the prior contract was awarded under a competitive process and the Solicitation Agent determines that use of the original contractor will significantly reduce the costs of, or risks associated with, the work.

D. Hybrid Contracts. The following classes of contracts include elements of construction of public improvements as well as personal services and may be awarded under a request for proposals, unless exempt from competitive solicitation.

(1) Design/Build and Construction Manager/General Contractor ("CM/GC") Contracts. Contracts for the construction of public improvements using a design/build or construction manager/general contractor construction method shall be awarded under a request for proposals. The determination to construct a project using a design/build or construction manager/general contractor construction method must be approved by the Stayton City Council or designee, upon application of the Solicitation Agent, in which the Solicitation Agent submits facts that support a finding that the construction of the improvement under the proposed method is likely to result in cost savings, higher quality, reduced errors, or other benefits to the City of Stayton.

(2) Energy Savings Performance Contracts. Unless the contract qualifies for award under another classification in this section 3.04.080, contractors for energy savings performance contracts shall be selected under a request for proposals in accordance with the Stayton Public Contracting Code.

E. Contracts for Goods and Services

(1) Any Procurement. The procurement of goods or services, or goods and services in any amount may be made under either an invitation to bid or a request for proposals.

(2) Procurements Up to $250,000. The procurement of goods or services, or goods and services, for which the estimated contract price does not exceed $250,000 may be made under an informal solicitation for either quotes or proposals. (Ord. 1071, December 2, 2024)

F. Contracts Subject to Award at City Manager's Discretion. The following classes of contracts may be awarded in any manner which the City Manager deems appropriate to the City of Stayton's needs, including by direct appointment or purchase. Except where otherwise provided, the City Manager shall make a record of the method of award. (Ord. 1071, December 2, 2024)

(1) Advertising. Contracts for the placing of notice or advertisements in any medium.

(2) Amendments. Contract amendments shall not be considered to be separate contracts if made in accordance with the Stayton Public Contracting Code.

(3) Animals. Contracts for the purchase of animals.

(4) Contracts Up to $25,000. Contracts of any type for which the contract price does not exceed $25,000 without a record of the method of award. *(Ord No. 959, 2013)* (Ord. 1071, December 2, 2024)

(5) Copyrighted Materials; Library Materials. Contracts for the acquisition of materials entitled to copyright, including, but not limited to works of art and design, literature and music, or materials, even if not entitled to copyright, purchased for use as library lending materials.

(6) Equipment Repair. Contracts for equipment repair or overhauling, provided the service or parts required are unknown and the cost cannot be determined without extensive preliminary dismantling or testing.

(7) Government Regulated Items. Contracts for the purchase of items for which prices or selection of suppliers are regulated by a governmental authority.

(8) Insurance. Insurance and service contracts as provided for under ORS 414.115, 414.125, 414.135 and 414.145, and the Stayton Municipal Code.

(9) Non-Owned Property. Contracts or arrangements for the sale or other disposal of abandoned property or other personal property not owned by the City of Stayton.

(10) Sole Source Contracts. Contracts for goods or services which are available from a single source may be awarded without competition.

(11) Specialty Goods for Resale. Contracts for the purchase of specialty goods by City of Stayton for resale to consumers.

(12) Sponsorship Agreements. Sponsorship agreements, under which the City of Stayton receives a gift or donation in exchange for recognition of the donor.

(13) Structures. Contracts for the disposal of structures located on City of Stayton-owned property.

(14) Renewals. Contracts that are being renewed in accordance with their terms are not considered to be newly issued Contracts and are not subject to competitive procurement procedures.

(15) Temporary Extensions or Renewals. Contracts for a single period of one year or less, for the temporary extension or renewal of an expiring and non-renewable, or recently expired, contract, other than a contract for public improvements.

(16) Temporary Use of City of Stayton-Owned Property. The City of Stayton may negotiate and enter into a license, permit or other contract for the temporary use of City of Stayton-owned property without using a competitive selection process if:

(a) The contract results from an unsolicited proposal to the City of Stayton based on the unique attributes of the property or the unique needs of the proposer;

(b) The proposed use of the property is consistent with the City of Stayton's use of the property and the public interest; and,

(c) The City of Stayton reserves the right to terminate the contract without penalty, in the event that the City of Stayton determines that the contract is no longer consistent with the City of Stayton's present or planned use of the property or the public interest.

(17) Used Property. The City Manager may contract for the purchase of used property by negotiation if such property is suitable for the City of Stayton's needs and can be purchased for a lower cost than substantially similar new property. For this purpose the cost of used property shall be based upon the life-cycle cost of the property over the period for which the property will be used by the City of Stayton. The City Manager shall record the findings that support the purchase. (Ord. 1071, December 2, 2024)

(18) Utilities. Contracts for the purchase of steam, power, heat, water, telecommunications services, and other utilities.

G. Contracts Required by Emergency Circumstances

(1) In General. When an official with authority to enter into a contract on behalf of the City of Stayton determines that immediate execution of a contract within the official's authority is necessary to prevent substantial damage or injury to persons or property, the official may execute the contract without competitive selection and award or Stayton City Council approval, but, where time permits, the official shall attempt to use competitive price and quality evaluation before selecting an emergency contractor.

(2) Reporting. An official who enters into an emergency contract shall, as soon as possible, in light of the emergency circumstances, (1) document the nature of the emergency; the method used for selection of the particular contractor and the reason why the selection method was deemed in the best interest of the City of Stayton and the public, and (2) notify the Stayton City Council of the facts and circumstances surrounding the emergency execution of the contract.

(3) Emergency Public Improvement Contracts. A public improvement contract may only be awarded under emergency circumstances if the Stayton City Council or City Manager has made a written declaration of emergency. Any Public Improvement Contract award under emergency conditions must be awarded within 60 Days following the declaration of an emergency unless the Stayton City Council grants an extension of the emergency period. Where the time delay needed to obtain a payment or performance bond for the contract could result in injury or substantial property damage, the City Manager may waive the requirement for all or a portion of required performance and payment bonds. (Ord. 1071, December 2, 2024)

H. Federal Purchasing Programs. Goods and services may be purchased without competitive procedures under a local government purchasing program administered by the United States General Services Administration ("GSA") as provided in this subsection.

(1) The procurement must be made in accordance with procedures established by

GSA for procurements by local governments, and under purchase orders or contracts submitted to and approved by the City Manager. The Solicitation Agent shall provide the City Manager with a copy of the letter, memorandum or other documentation from GSA establishing permission to the City of Stayton to purchase under the federal program. (Ord. 1071, December 2, 2024)

(2) The price of the goods or services must be established under price agreements between the federally approved vendor and GSA.

(3) The price of the goods or services must be less than the price at which such goods or services are available under state or local cooperative purchasing programs that are available to the City of Stayton.

(4) If a single purchase of goods or services exceeds $250,000, the Solicitation Agent must obtain informal written quotes or proposals from at least two additional vendors (if reasonably available) and find, in writing, that the goods or services offered by GSA represent the best value for the City of Stayton. This paragraph does not apply to the purchase of equipment manufactured or sold solely for military or law enforcement purposes. (Ord. 1071, December 2, 2024)

I. Cooperative Procurement Contracts. Cooperative procurements may be made without competitive solicitation as provided in the Oregon Public Contracting Code.

J. Surplus Property

(1) General Methods. Surplus property may be disposed of by any of the following methods upon a determination by the City Manager that the method of disposal is in the best interest of the City of Stayton. Factors that may be considered by the City Manager include costs of sale, administrative costs, and public benefits to the City of Stayton. The City Manager shall maintain a record of the reason for the disposal method selected, and the manner of disposal, including the name of the person to whom the surplus property was transferred. (Ord. 1071, December 2, 2024)

(a) Governments. Without competition, by transfer or sale to another city department or other public agency.

(b) Auction. By publicly advertised auction to the highest bidder.

(c) Bids. By public advertised invitation to bid.

(d) Liquidation Sale. By liquidation sale using a commercially recognized

third-party liquidator selected in accordance with rules for the award of personal services contracts.

(e) Fixed Price Sale. The City Manager may establish a selling price based upon an independent appraisal or published schedule of values generally accepted by the insurance industry, schedule and advertise a sale date, and sell to the first buyer meeting the sale terms. (Ord. 1071, December 2, 2024)

(f) Trade-In. By trade-in, in conjunction with acquisition of other price-based items under a competitive solicitation. The solicitation shall require the offer to state the total value assigned to the surplus property to be traded.

(g) Donation. By donation to any organization operating within or providing a service to residents of the City of Stayton which is recognized by the Internal Revenue Service as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986, as amended.

(2) Disposal of Property with Minimal Value. Surplus property which has a value of less than $500, or for which the costs of sale are likely to exceed sale proceeds may be disposed of by any means determined to be cost-effective, including by disposal as waste. The official making the disposal shall make a record of the value of the item and the manner of disposal.

(3) Personal-Use Items. An item (or indivisible set) of specialized and personal use with a current value of less than $100 may be sold to the employee or retired or terminated employee for whose use it was purchased. These items may be sold for fair market value without bid and by a process deemed most efficient by the City Manager, or may be gifted to the employee as the City Manager determines is appropriate under the circumstances. (Ord. 1071, December 2, 2024)

(4) Restriction on Sale to City of Stayton Employees. City of Stayton employees shall not be restricted from competing, as members of the public, for the purchase of publicly sold surplus property, but shall not be permitted to offer to purchase property to be sold to the first qualifying bidder until at least three days after the first date on which notice of the sale is first publicly advertised.

(5) Conveyance to Purchaser. Upon the consummation of a sale of surplus personal property, the City of Stayton shall make, execute and deliver, a bill of sale (certificate of title, etc.) signed on behalf of the City of Stayton, conveying the property in question to the purchaser and delivering possession, or the right to take possession, of the property to the purchaser.

K. Concession Agreements

(1) In General. No part of a Concession Agreement shall contain or constitute a waiver of any generally applicable rules, code provisions or requirements of the City of Stayton concerning regulation, registration, licensing, inspection, or permit requirements for any construction, rental or business activity.

(2) Classes of Contracts Eligible for Award Without Competition. The following Concession Agreements may be awarded by any method deemed appropriate by the Solicitation Agent, including without limitation, by direct appointment, private negotiation, from a qualified pool, or using a competitive process.

(a) Contracts Under $5,000. Contracts under which the Solicitation Agent estimates that receipts by the City of Stayton will not exceed $5,000 in any fiscal year and $50,000 in the aggregate.

(b) Single Event Concessions. Concessions to sell or promote food, beverages, merchandise or services at a single public event shall be awarded based on any method determined by the City Manager to provide a fair opportunity to all persons desiring to operate a concession, but in which the promotion of the public interest and success of the event shall be of predominant importance. (Ord. 1071, December 2, 2024)

(3) Competitive Award. Concession Agreements solicited by the City of Stayton for the use of designated public premises for a term greater than a single event shall be awarded as follows:

(a) Small Concessions. For Concession Agreements for which the concessionaire's projected annual gross revenues are estimated to be $500,000 or less, the City Manager has discretion to use either an informal solicitation or formal request for proposals process applicable to contracts for personal services. If the proposals received indicate a probability that the concessionaire's annual gross revenues will exceed $500,000, the Solicitation Agent may, but shall not be required to, reissue the solicitation as a request for proposals. (Ord. 1071, December 2, 2024)

(b) Major Concessions. Concession Agreements for which the concessionaire's projected annual gross revenues under the contract are estimated to exceed $500,000 annually shall be awarded using a request for proposals.

3.04.090 INFORMAL SOLICITATION PROCEDURES

The City of Stayton may use the following procedure for informal solicitations, in lieu of the procedures set forth in the Oregon Attorney General's Model Rules.

A. Informally Solicited Quotes and Proposals

(1) Solicitation of Offers. When authorized by this Chapter, an informal solicitation may be made by general or limited advertisement to a certain group of vendors, by direct inquiry to persons selected by the Solicitation Agent, or in any other manner which the Solicitation Agent deems suitable for obtaining competitive quotes or proposals. The Solicitation Agent shall deliver or otherwise make available to potential offerors, a written scope of work, a description of how quotes or proposals are to be submitted and description of the criteria for award.

(2) Award. The Solicitation Agent shall attempt to obtain a minimum of three written quotes or proposals before making an award. If the award is made solely on the basis of price, the Solicitation Agent shall award the contract to the responsible offeror that submits the lowest responsive quote. If the award is based on criteria other than, or in addition to, price, the Solicitation Agent shall award the contract to the responsible offeror that will best serve the interest of the City of Stayton, based on the criteria for award.

(3) Records. A written record of all persons solicited and offers received shall be maintained. If three offers cannot be obtained, a lesser number will suffice, provided that a written record is made of the effort to obtain the quotes.

B. Qualified Pools

(1) In General. To create a qualified pool, the City Manager may invite prospective contractors to submit their qualifications to the City of Stayton for inclusion as participants in a pool of contractors qualified to provide certain types of goods, services, or projects including personal services, and public improvements. (Ord. 1071, December 2, 2024)

(2) Advertisement. The invitation to participate in a qualified pool shall be advertised in the manner provided for advertisements of invitations to bid and requests for proposals by publication in at least one newspaper of general statewide circulation. If qualification will be for a term that exceeds one year or allows open entry on a continuous basis, the invitation to participate in the pool must be re-published at least once per year and shall be posted at the City of Stayton's main office and on its website.

(3) Contents of Solicitation. Requests for participation in a qualified pool shall describe the scope of goods or services or projects for which the pool will be

maintained, and the minimum qualifications for participation in the pool, which may include, but shall not be limited to qualifications related to financial stability, contracts with manufacturers or distributors, certification as an emerging small business, insurance, licensure, education, training, experience and demonstrated skills of key personnel, access to equipment, and other relevant qualifications that are important to the contracting needs of the City of Stayton.

(4) Contract. The operation of each qualified pool may be governed by the provisions of a pool contract to which the City of Stayton and all pool participants are parties. The Contract shall contain all terms required by the City of Stayton, including, without limitation, terms related to price, performance, business registration or licensure, continuing education, insurance, and requirements for the submission, on an annual or other periodic basis, of evidence of continuing qualification. The qualified pool contract shall describe the selection procedures that the City of Stayton may use to issue contract job orders. The selection procedures shall be objective and open to all pool participants and afford all participants the opportunity to compete for or receive job awards. Unless expressly provided in the contract, participation in a qualified pool will not entitle a participant to the award of any City of Stayton contract.

(5) Use of Qualified Pools. Subject to the provisions of this Chapter concerning methods of solicitation for classes of contracts, the Solicitation Agent shall award all contracts for goods or services of the type for which a qualified pool is created from among the pool's participants, unless the Solicitation Agent determines that best interests of the City of Stayton require solicitation by public advertisement, in which case, pool participants shall be notified of the solicitation and invited to submit competitive proposals.

(6) Amendment and Termination. The City Manager may discontinue a qualified pool at any time, or may change the requirements for eligibility as a participant in the pool at any time, by giving notice to all participants in the qualified pool. (Ord. 1071, December 2, 2024)

(7) Protest of Failure to Qualify. The City Manager shall notify any applicant who fails to qualify for participation in a pool that it may appeal a qualified pool decision to the Stayton City Council in the manner described in section 3.04.140. (Ord. 1071, December 2, 2024)

3.04.100 USE OF BRAND NAME SPECIFICATIONS FOR PUBLIC IMPROVEMENTS

A. In General. Specifications for contracts shall not expressly or implicitly require any product by one brand name or mark, nor the product of one particular manufacturer or

seller, except for the following reasons:

(1) It is unlikely that such exemption will encourage favoritism in the awarding of Public improvement Contracts or substantially diminish competition for Public Improvement Contracts;

(2) The specification of a product by brand name or mark, or the product of a particular manufacturer or seller, would result in substantial cost savings to the City of Stayton;

(3) There is only one manufacturer or seller of the product of the quality required; or,

(4) Efficient utilization of existing equipment, systems or supplies requires the acquisition of compatible equipment or supplies.

B. Authority of City Manager. The City Manager shall have authority to determine whether an exemption for the use of a specific brand name specification should be granted by recording findings that support the exemption based on the provisions of section 3.04.100A. (Ord. 1071, December 2, 2024)

C. Brand Name or Equivalent. Nothing in this section 3.04.100 prohibits the City of Stayton from using a "brand name or equivalent" specification, from specifying one or more comparable products as examples of the quality, performance, functionality or other characteristics of the product needed by the City of Stayton, or from establishing a qualified product list.

3.04.110 BID, PERFORMANCE AND PAYMENT BONDS

A. Solicitation Agent May Require Bonds. The Solicitation Agent may require bid security and a good and sufficient performance and payment bond even though the contract is of a class that is exempt from the requirement.

B. Bid Security. Except as otherwise exempted, the solicitations for all contracts that include the construction of a public improvement and for which the estimated contract price will exceed $75,000 shall require bid security. Bid security for a request for proposal may be based on the City of Stayton's estimated contract price.

C. Performance Bonds

(1) In General. Except as provided in this Chapter, all public contracts are exempt from the requirement for the furnishing of a performance bond.
(2) Contracts Involving Public Improvements. Prior to executing a contract for more than $50,000 that includes the construction of a public improvement, the

contractor must deliver a performance bond in an amount equal to the full contract price conditioned on the faithful performance of the contract in accordance with the plans, specifications and conditions of the contract. The performance bond must be solely for the protection of the City of Stayton and any public agency that is providing funding for the project for which the contract was awarded.

(3) Cash-in-Lieu. The City Manager or Stayton City Council may permit the successful offeror to submit a cashier's check or certified check in lieu of all or a portion of the required performance bond. (Ord. 1071, December 2, 2024)

D. Payment Bonds

(1) In General. Except as provided in this Chapter, all public contracts are exempt from the requirement for the furnishing of a payment bond.

(2) Contracts Involving Public Improvements. Prior to executing a contract for more than $50,000 that includes the construction of a public improvement, the contractor must deliver a payment bond equal to the full contract price, solely for the protection of claimants under ORS 279C.600.

E. Design/Build Contracts. If the Public Improvement Contract is with a single person to provide both design and construction of a public improvement, the obligation of the performance bond for the faithful performance of the contract must also be for the preparation and completion of the design and related services covered under the contract. Notwithstanding when a cause of action, claim or demand accrues or arises, the surety is not liable after final completion of the contract, or longer if provided for in the contract, for damages of any nature, economic or otherwise and including corrective work, attributable to the design aspect of a design-build project, or for the costs of design revisions needed to implement corrective work.

F. Construction Manager/General Contractor Contracts. If the Public Improvement Contract is with a single person to provide construction manager and general contractor services, in which a guaranteed maximum price may be established by an amendment authorizing construction period services following preconstruction period services, the contractor shall provide the bonds required by section 3.04.110A of this section upon execution of an amendment establishing the guaranteed maximum price. The City of Stayton shall also require the contractor to provide bonds equal to the value of construction services authorized by any early work amendment in advance of the guaranteed maximum price amendment. Such bonds must be provided before construction starts.

G. Surety; Obligation. Each performance bond and each payment bond must be executed solely by a surety company or companies holding a certificate of authority to transact surety business in Oregon. The bonds may not constitute the surety obligation of an individual or individuals. The performance and payment bonds must be payable to the City of Stayton or to the public agency or agencies for whose benefit the bond is issued, as specified in the solicitation documents, and shall be in a form approved by the City Manager. (Ord. 1071, December 2, 2024)

H. Emergencies. In cases of emergency, or when the interest or property of the City of Stayton probably would suffer material injury by delay or other cause, the requirement of furnishing a good and sufficient performance bond and a good and sufficient payment bond for the faithful performance of any public improvement contract may be excused, if a declaration of such emergency is made in accordance with the provisions of section 3.04.080 G., unless the Stayton City Council requires otherwise.

3.04.120 CANCELLATION, REJECTION, DELAY OF INVITATIONS FOR BIDS OR REQUESTS FOR PROPOSALS

The following provisions apply to all contracts administered under this Chapter:

A. Any solicitation or procurement described in a solicitation may be cancelled, or any or all bids or proposals may be rejected in whole or in part, when the cancellation or rejection is in the best interest of the City as determined by the Stayton City Council, City Manager, Purchasing Manager, or Solicitation Agent. The reasons for the cancellation or rejection must be made part of the solicitation file. The City of Stayton, City Manager, Purchasing Manager, or Solicitation Agent are not liable to any bidder or proposer for any loss or expense caused by or resulting from the cancellation or rejection of a solicitation, bid, proposal or award. (Ord. 1071, December 2, 2024)

B. Any solicitation or procurement described in a solicitation may be delayed or suspended when the delay or suspension is in the best interest of the City as determined by the Stayton City Council, City Manager, Purchasing Manager, or Solicitation Agent. The reasons for the delay or suspension must be made part of the solicitation file. The City of Stayton, City Manager, Purchasing Manager, or Solicitation Agent are not liable to any bidder or proposer for any loss or expense caused by or resulting from the delay or suspension of a solicitation, bid, proposal or award. (Ord. 1071, December 2, 2024)

3.04.130 ELECTRONIC ADVERTISEMENT OF PUBLIC IMPROVEMENT CONTRACTS

In lieu of publication in a newspaper of general circulation in the Stayton area, the advertisement for an invitation to bid or request for proposals for a contract involving a public improvement may be published electronically by posting on the City of Stayton's website, provided that the

following conditions are met:

A. The placement of the advertisement is on a location within the website that is maintained on a regular basis for the posting of information concerning solicitations for projects of the type for which the invitation to bid or request for proposals is issued; and,

B. The Solicitation Agent determines that the use of electronic publication will be at least as effective in encouraging meaningful competition as publication in a newspaper of general circulation in the Stayton area and will provide costs savings for the City of Stayton, or that the use of electronic publication will be more effective than publication in a newspaper of general circulation in the City of Stayton metropolitan area in encouraging meaningful competition.

3.04.140 APPEAL OF DEBARMENT OF PREQUALIFICATION DECISION

A. Right to Hearing. Any person who has been debarred from competing for City of Stayton contracts or for whom prequalification has been denied, revoked or revised, may appeal the City of Stayton's decision to the Stayton City Council as provided in this section 3.04.140.

B. Filing of Appeal. The person must file a written notice of appeal with the City of Stayton's City Manager within three business days after the prospective contractor's receipt of notice of the determination of debarment, or denial of prequalification. (Ord. 1071, December 2, 2024)

C. Notification of Stayton City Council. Immediately upon receipt of such notice of appeal, the City Manager shall notify the Stayton City Council of the appeal. (Ord. 1071, December 2, 2024)

D. Hearing. The procedure for appeal from a debarment or denial, revocation or revision of prequalification shall be as follows:

(1) Promptly upon receipt of notice of appeal, the City of Stayton shall notify the appellant of the time and place of the hearing;

(2) The Stayton City Council shall conduct the hearing and decide the appeal within 30 days after receiving notice of the appeal from the City Manager; and, (Ord. 1071, December 2, 2024)

(3) At the hearing, the Stayton City Council shall consider de novo the notice of debarment, or the notice of denial, revocation or revision of prequalification, the standards of responsibility upon which the decision on prequalification was based,

or the reasons listed for debarment, and any evidence provided by the parties.

E. Decision. The Stayton City Council shall set forth in writing the reasons for the decision.

F. Costs. The Stayton City Council may allocate the Stayton City Council's costs for the hearing between the appellant and the City of Stayton. The allocation shall be based upon facts found by the Stayton City Council and stated in the Stayton City Council's decision that, in the Stayton City Council's opinion, warrant such allocation of costs. If the Stayton City Council does not allocate costs, the costs shall be paid as by the appellant, if the administrative action/decision is upheld, or by the City of Stayton, if the same decision is overturned.

Judicial Review. The decision of the Stayton City Council may be reviewed only upon a petition in the Marion County Circuit Court filed within 15 days after the date of the Stayton City Council's written decision, as stated in the minutes of the meeting in which the decision was rendered. (Ord. 877, section 1, March 21, 2005)

REVENUE AND FINANCE

CHAPTER 3.06

TRANSIENT OCCUPANCY TAX

SECTIONS

3.06.010 TITLE

This Ordinance shall be known and may be cited as the "Transient Occupancy Tax Ordinance.

3.06.020 DEFINITIONS

For the purpose of this chapter, the following words and phrases mean:

1. **HOTEL**: means any structure, or any portion of any structure which is occupied or intended or designed for transient occupancy for 27 days or less, for dwelling, lodging, or sleeping purposes, and includes any hotel, inn, bed & breakfast, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, public or private dormitory, fraternity, sorority, public or private club, space in mobile home or trailer parks, recreational vehicle parks, or similar structure or portions thereof so occupied, provided such occupancy is for 27 days or less.

2. **COMMON COUNCIL**: Means the City Council of the City of Stayton, Oregon.

3. **OCCUPANCY**: Means the use or possession, or the right to the use or possession for lodging or sleeping purposes of any room or rooms in a hotel, or space in a mobile home or trailer or Recreational Vehicle (RV) park or portion thereof.

4. **OPERATOR**: Means the person who is proprietor of the hotel in any capacity. Whether the operator performs functions through a managing agent or any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this Ordinance and shall have the same duties and liabilities as the principal. Compliance with the provisions of this Ordinance by either the principal or the managing agent shall be considered to be compliance by both.

5. **PERSON**: Means any individual, firm, partnership, joint venture, association, social club, fraternal organization, fraternity, sorority, public or private dormitory, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other entity, group or combination acting as a unit.

6. **CASH ACCOUNTING**: Means the operator does not enter the rent due from a transient on the records until rent is paid.

7. **CITY COUNCIL**: Means the council for the City of Stayton as defined in the City of Stayton Charter.

8. **CITY ADMINISTRATOR**: Means the individual employed by the City of Stayton in the capacity of City Clerk or an assigned agent.

9. **ACCRUAL ACCOUNTING**: Means the operator enters the rent due from a transient on the records when the rent is earned whether or not it is paid.

10. **RENT**: Means the consideration charged, whether or not received by the operator, for the occupancy of space in a hotel valued in money, goods, labor, credits, property, or other consideration valued in money, without a deduction.

11. **RENT PACKAGE PLAN**: Means the consideration charged for both food and rent where a single rate is made for the total of both. The amount applicable to rent for determination of transit occupancy tax under this ordinance shall be the same charge made for rent when consideration is not a part of a package plan.

12. **RETURN**: Means the City's prescribed form for accounting for collected taxes.

13. **TRANSIENT**: Means any person who exercises occupancy of or is entitled to occupancy in a hotel for a period of 27 consecutive calendar days or less, counting portions of calendar days as full days. The day a transient checks out of the hotel shall not be included in determining the 27 day period if the transient is not charged rent for that day by the operator. Any such person so occupying space in a hotel shall be deemed to be a transient until the period of 27 days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy. In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of this ordinance may be considered. A person who pays for lodging on a monthly basis, irrespective of the number of days in such month, shall not be deemed a transient.

14. **TAX**: Means a tax upon room rentals, which is either the tax payable by the transient, or the aggregate amount of taxes due from an operator during the period for which reporting collections is required.

3.06.030 TAX IMPOSED

For the privilege of occupancy in any hotel, on and after January 1, 2000, each transient shall pay a tax in the amount of seven percent (7%) of the rent charged by the operator. The tax constitutes a debt owed by the transient to the city which is extinguished only by payment to the operator or to the city. The transient shall pay the tax to the operator of the hotel, at the time the rent is paid. The operator shall enter the tax on appropriate records when rent is collected if the operator keeps records on the cash accounting basis. If operator keeps records on the accrual accounting basis then the tax shall be entered on approved records when earned. If rent is paid in installments, a proportionate share of the tax shall be paid by the transient to the operator with each installment. If, for any reason, the tax due is not paid to the operator of the hotel, the City Administrator may require that such tax shall be paid directly to the city. In all cases, the rent paid or charged for occupancy, shall exclude the sale of any goods, service and commodities, other than the furnishing of rooms, accommodations, and parking space in mobile home parks or RV parks or trailer parks.

3.06.040 COLLECTION OF TAX BY OPERATOR; RULES FOR COLLECTIONS

1. Every operator renting rooms or space in this city, the occupancy of which is not exempted under the terms of this Ordinance, shall collect a Transient Occupancy tax from the occupant. The tax collected or accrued by the operator constitutes a debt owing by the operator to the city.

2. In all cases of credit or deferred payment of rent, the payment of tax to the operator may be deferred until the rent is paid, and the operator shall not be liable for the tax until credits are paid or deferred payments are made.

3. The City Administrator shall enforce provisions of this Ordinance and shall have the power to adopt rules and regulations not inconsistent with this Ordinance as may be necessary to aid in the enforcement.

4. For rent collected on portions of a dollar, the first one cent of tax shall be collected on nine cents through 21 cents, inclusive; the second one cent shall be collected on 22 cents through 35 cents, inclusive; the third one cent shall be collected on 36 cents through 48 cents inclusive; the fourth one cent shall be collected on 49 cents through 61 cents, inclusive; the fifth one cent shall be collected on 62 cents through 74 cents inclusive; the sixth one cent shall be collected on 75 cents through 87 cents inclusive; and the seventh one cent shall be collected on 88 cents through $1 inclusive.

3.06.050 OPERATOR'S DUTIES

Each operator shall collect the tax imposed by this ordinance at the same time as the rent is collected for every transient. The amount of tax shall be separately stated upon the operator's records, and any receipt rendered by the operator. No operator of a hotel shall advertise that the tax or any part of the tax will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, when added, any part will be refunded, except in the manner provided by this Ordinance. The operator shall pay the tax to this City as imposed by this Ordinance.

3.06.060 EXEMPTIONS

No tax established under this Ordinance shall be imposed upon:

1. Any occupant for more than 27 successive calendar days (a person who pays for lodging on a monthly basis, irrespective of the number of days in such a month, shall not be deemed a transient);

2. Any occupant whose rent is of a value less than $2.00 per day;

3. Any person who rents a private home, vacation cabin, or like facility from any owner who rents such facilities incidentally to the owner's own use thereof;

4. Any occupant whose rent is paid for hospital room, rehabilitation center or to a medical clinic, convalescent home, or home for aged people.

3.06.070 REGISTRATION OF OPERATOR; FORM AND CONTENTS; EXECUTION; CERTIFICATION OF AUTHORITY

Every person engaging or about to engage in business as an operator of a hotel in this city shall register with the City Administrator on a form provided by the City. Operators engaged in business at the time this Ordinance is adopted must register not later than 30 calendar days after said adoption. Operators starting business after this Ordinance is adopted must register within 15 calendar days after commencing business. The privilege of registration after the date of imposition of the Transient Occupancy Tax shall not relieve any person from the obligation of payment of collection of the Transient Occupancy Tax regardless of registration. Registration shall set forth the name of the operator, name under which an operator transacts or intends to transact business, the location of the place of business and such other information to facilitate the collection of the tax as the City Administrator may require. The registration shall be signed by the operator. The City Administrator shall, within ten days after registration, issue or cause to be issued, without charge, a certificate of authority to each registrant to collect the tax from the occupant, together with a duplicate thereof for each additional place of business of each registrant. Certificates shall be nonassignable and nontransferable and shall be surrendered immediately to the City Administrator upon the cessation of business at the location named or upon its sale or transfer. Each certificate and duplicate shall state the place of business to which it is applicable and shall be prominently displayed therein so as to be seen and come to the notice readily of all occupants and persons seeking occupancy.

Said certificate shall, among other things, state the following:

(a) The name of the operator;

(b) Designated name of business enterprise;

(c) The address of the hotel;

(d) The date upon which the certificate was issued;

(e) “This Transient Occupancy Registration Certificate signifies that the person named on the face hereof has fulfilled the requirements of the Transient Occupancy Tax Ordinance of the City of Stayton by registration with the City Administrator for the purpose of collection from transients the room tax imposed by said City and remitting said tax to the City Administrator. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, or to operate a hotel without strictly complying with all local applicable laws including but not limited to those requiring a permit from any board, commission, department, or office of the City of Stayton. This certificate does not constitute a permit or a license.

3.06.080 DUE DATE; RETURNS AND PAYMENTS

1. The tax imposed by this Ordinance shall be paid by the transient to the operator at the time that rent is paid. All amounts of such taxes collected by any operator shall be paid to the City of Stayton on a quarterly basis on the 30th day of the month, immediately following, for the preceding quarter; and are delinquent on the last day of the month in which they are due.

2. On or before the last day of the month following each quarter of collection, a return for the preceding quarter's tax collections shall be filed with the City of Stayton. The return shall be filed in such form

as the City Administrator may prescribe by every operator responsible for collection/or payment of tax.

3. Returns shall show the amount of tax collected or otherwise due for the related period. The City Administrator may require returns to show the total rentals upon which tax was collected or otherwise due, gross receipts of operator for such period, and an explanation in detail of any discrepancy between such amounts, and the amount of rents exempt, if any.

4. The person required to file the return shall deliver the return, together with the remittance of the amount of the tax due, to the City of Stayton either by personal delivery or by mail. If the return is mailed, the postmark shall be considered the date of delivery for determining delinquencies.

5. For good cause, the City Administrator may extend, for not to exceed one month, the time for making any return or payment of tax. No further extension shall be granted, except by the City Council. Any operator to whom an extension is granted shall pay interest at the rate of one percent (1%) per month on the amount of tax due, without proration for a fraction of a month. If a return is not filed, and the tax and interest due is not timely paid by the end of the extension granted, then the interest shall become a part of the tax for computation of penalties described elsewhere in the Ordinance.

6. The City Administrator, if deemed necessary in order to secure payment or facilitate collection by the City on the amount of taxes in any individual case, may require returns and payment of the amount of taxes for other than quarterly periods.

3.06.090 PENALTIES AND INTEREST

1. Original delinquency. Any operator who has not been granted an extension of time for remittance of tax due under 3.06.080(e) of this Ordinance and who fails to remit any tax imposed by this Ordinance prior to delinquency, shall pay a penalty of ten percent (10%) of the amount of the tax due in addition to the amount of the tax.

2. Continued delinquency. Any operator who has not been granted an extension of time for remittance of tax due under 3.06.080(e) of this Ordinance, and who failed to pay any delinquent remittance on or before a period of 30 days following the date on which the remittance first became delinquent, shall pay a second delinquency penalty of 15 percent (15%) of the amount of the tax due plus the amount of the tax and the percent (10%) penalty first imposed.

3. Fraud. If the City Administrator determines that the nonpayment of any remittance due under this Ordinance is due to fraud or intent to evade the provisions of this Ordinance, a penalty of 25 percent (25%) of the amount of the tax shall be added thereto, in addition to the penalties described in paragraph (a) and (b) of this section.

4. Interest. In addition to the penalties imposed, any operator who fails to remit any tax imposed by this Ordinance shall pay interest at the rate of one-half of one percent per month or fraction thereof without

proration for portions of a month, on the amount of the tax due, exclusive of penalties, from the date on which the remittance first became delinquent until paid.

5. Penalties merged with tax. Every penalty imposed and such interest as accrues under the provisions of this section shall be merged with and become a part of the tax herein required to be paid.

6. Petition for waiver. Any operator who fails to remit the tax due to be collected within the time herein stated shall pay the penalties herein stated provided, however, the operator may petition the City Council for waiver and refund of the penalty or any portion thereof.

3.06.100 DEFICIENCY DETERMINATIONS; FRAUD, EVASION, OPERATOR DELAY

1. Deficiency determination. If the City Administrator determines that the returns are incorrect, the City Administrator may compute and determine the amount required to be paid upon the basis of the facts contained in the return or returns or upon the basis of any information within the City Administrator's possession. One or more deficiency determinations may be made of the amount due for one, or more than one period, and the amount so determined shall be due and payable immediately upon service of notice as herein provided after which the amount determined is delinquent. Penalties on deficiencies shall be applied as set forth in Section 3.06.090.

   (a) In making a determination, the City Administrator may resolve overpayments, if any, which may have been previously made for a period or periods by the following:
      i) Credit overpayments to future billings;
      ii) Credit against any underpayment for a subsequent period or periods, or against penalties, and interest, on the underpayment. The interest on underpayment shall be computed in the manner set forth in Section 3.06.090.

   (b) The City Administrator shall give to the operator or occupant a written notice of the determination. The notice may be served personally or by mail; if by mail, the notice shall be addressed to the operator at the address as it appears in the records of the City Administrator. In case of service by mail or any notice required by this Ordinance, the service is completed at the time of deposit in the United States Post Office.

   (c) Except in the case of fraud, intent to evade the requirements of this Ordinance or related rules and regulations, may result in a "deficiency determination". Every deficiency determination shall be made and notice thereof mailed within three years after the last day of the month following the close of the monthly period for which the amount is proposed to be determined or within three years after the return is filed, which ever period expires the later.

   (d) Any determination shall become due and payable immediately upon receipt of notice and shall become final within ten days after the City Administrator has given notice thereof, provided, however, the operator may petition the City Council redemption and refund if the petition is filed before the determination becomes final as herein provided.

2. Fraud, refusal to collect, evasion. If any operator shall fail or refuse to collect the Transient Occupancy Tax or to make, within the time provided in this Ordinance, any report and remittance of collect the Transient Occupancy Tax or any portion thereof required by this Ordinance, or makes a fraudulent return or otherwise willfully attempts to evade this Ordinance, the City Administrator shall proceed in such a manner as the Administrator may deem best to obtain facts and information on which to base an estimate of the tax due. As soon as the City Administrator has determined the tax due that is imposed by this Ordinance from any operator who has failed or refused to collect the Transient Occupancy Tax and to report and remit the Transient Occupancy Tax, he or she shall proceed to determine and assess against such operator the tax, interest, and penalties, provided for by this Ordinance. In case such determination is made, the City Administrator shall give a notice in the manner aforesaid of the amount so assessed. Such determination and notice shall be made and mailed within three years after discovery by the City Administrator of any fraud, intent to evade or failure or refusal to collect the tax or failure to file the return(s). Any determination shall become due and payable immediately upon receipt of notice and shall become final, within ten (10) days after the City Administrator has given notice thereof; provided, however, the operator may petition the City Council for redemption and refund if the petition is filed before the determination becomes final herein provided.

3. Operator delay. If the City Administrator believes that the collection of any tax or any amount of tax required to be collected and paid to the City will be jeopardized by delay, or if any determination will be jeopardized by delay, the City Administrator shall thereupon make a determination of the tax or amount of tax required to be collected, noting the fact upon the determination. The amount so determined as herein provided shall be immediately due and payable, and the operator shall immediately pay same determination to the City Administrator after service of notice thereof; provided, however, the operator may petition the City Council, after payment has been made, for redemption and refund of such determination, if the petition is filed within ten (10) days from the date of service of notice by the City Administrator.

3.06.110 REDETERMINATIONS

1. Any person against whom a determination is made under Section 3.06.100 or any person directly interested may petition for a redetermination and redemption and refund within the time required in Section 3.06.100. If a petition for redetermination and refund is not filed within the time required therein, the determination becomes final at the expiration of the allowable time.

2. If a petition for redetermination and refund is filed within the allowable period, the City Council shall reconsider the determination, and, if the person has so requested in the petition, shall grant the person an oral hearing and shall give ten (10) days notice of the time and place of the hearing. The City Administrator may continue the hearing from time to time as may be necessary.

3. The City Administrator may decrease or increase the amount of the determination as a result of the hearing, and if an increase is determined, such increase shall be payable immediately after the hearing.

4. The order or decision of the City Administrator, upon a petition for redetermination for redemption and refund, becomes final ten (10) days after service upon the petitioner of notice thereof, unless appeal of such order or decision is filed with the City Council within the ten (10) days after service of such notice.

5. No petition for redetermination of redemption and refund or appeal therefrom shall be effective for any purpose unless the operator has first complied with the payment provisions hereof.

3.06.120 SECURITY FOR COLLECTION OF TAX

1. The City Administrator , whenever it is deemed necessary to insure compliance with this Ordinance, may require any operator subject thereto to deposit with the City such security in the form of cash, bond, or other security as the City Administrator may determine. The amount of the security shall be fixed by the City Administrator but shall not be greater than twice the operator's estimated average monthly Transient Occupancy Tax liability for the period of which returns are filed, determined in such a manner as the City Administrator deems proper, or $5,000, whichever amount is lesser. The amount of the security may be increased or decreased by the City Administrator subject to the limitations herein provided.

2. At any time within three (3) years after any tax or any amount of tax required to be collected becomes due and payable, or at any time within three (3) years after any determination becomes final, the City Administrator may bring an action in the courts of this state, or any other state, or of the Untied States in the name of the City of Stayton to collect the amount delinquent together with penalties and interest.

3.06.130 LIEN ON PERSONAL PROPERTY

The tax imposed by this Ordinance together with the interest and penalties herein provided and the filing fees which may be paid to the County Clerk of Marion County, Oregon, and advertising costs which may be incurred when same becomes delinquent as set forth in this Ordinance, shall be and, until paid, remain a lien on personal property described, from the date of its recording with the County Clerk of Marion County, Oregon, and superior to all subsequent recorded liens on all tangible personal property used in the hotel of an operator within the City of Stayton and may be foreclosed on and sold as may be necessary to discharge said lien, if the lien has been recorded with the County Clerk of Marion County, Oregon. Notice of lien may be issued by the City Administrator whenever the operator is in default in the payment of said tax, interest and penalty and shall be recorded with the County Clerk of Marion County, Oregon, and a copy sent to the delinquent operator. The personal property subject to such lien seized by any deputy or authorized employee of the City of Stayton may be sold at public auction after ten (10) ten days notice which shall mean one publication in a newspaper of general circulation (including weekly) published in the County of Marion.

Any personal property lien for Transient Occupancy taxes as shown on the records of Marion County shall, upon the payment of all taxes, penalties and interest thereon, may be released by the City Administrator upon petition setting for reasons deemed justified by the City Administrator or when the full amount determined to be due has been paid to the city and the operator or person making such payment shall receive a receipt therefore

stating that the full amount of taxes, penalties, and interest thereon have been paid and that the lien is thereby released and the record of lien is satisfied.

3.06.140 REFUNDS

1. Operators refunds. Whenever the amount of any Transient Occupancy Tax, penalty or interest has been paid more than once or has been erroneously or illegally collected or received by the City under this Ordinance, such portion may be refunded, provided a verified claim in writing thereof, stating the specific reason upon which the claim is founded, is filed with the City within three (3) years from the date of payment. The claim shall be made on forms provided by the City. If the claims are approved by the City Administrator, the excess amount collected or paid may be refunded or may be credited on any amounts then due and payable from the operator from whom it was collected or by whom paid and the balance may be refunded to such operator, administrators, executors, or assignees. All refunds shall be charged to the Transient Occupancy Tax Account set forth in Section 3.06.160(a).

2. Transient refunds. Whenever the tax required by this Ordinance has been collected by the operator, and deposited by the operator with the City, and it is later determined that the tax was erroneously or illegally collected or received by the City, it may be refunded by the City to the transient, provided a verified claim in writing thereof, stating the specific reason on which the claim is founded, is filed with the City Administrator within three (3) years from the date of payment. All refunds shall be charged to the Transient Occupancy Tax Fund set forth in Section 3.06.160(a).

3.06.150 COLLECTION FEE

Every operator responsible for the collection and remittance of the tax imposed by this Ordinance may withhold 5 percent (5%) of the net tax due to cover the operator's expense in the collection and remittance of said tax.

3.06.160 ADMINISTRATION

1. Special account. The City shall deposit all money collected pursuant to this Ordinance to the credit of the Transient Occupancy Account. The City Administrator shall report to the City Council annually the status of this account on June 30 of each year.

2. Records required from operators, etc. Every operator shall keep guest records of room sales and accounting books and records of the room sales. All records shall be retained by the operator for a period of three (3) years and six (6) months after they have come into being.

3. Examination of records; investigations. The City Administrator or any person so authorized in writing may examine, during normal business hours, the books, papers and accounting records specifically relating to room rentals of any operator, after notification to the operator responsible for the tax and may investigate the business of the operator only as it applies to this tax in order to verify the accuracy of any return made, or if no return is made by the operator, to ascertain and determine the amount

required to be paid. To assist in this process, the City Administrator may request excerpt copies of the operator's annual tax return which addresses room rentals.

4. Confidential character of information obtained; disclosure unlawful. It shall be unlawful for the City Administrator or any person having an administrative or clerical duty under the provisions of the Ordinance, or employee of the City to make known in any manner whatever the business affairs, operators, or information obtained by an investigation of records and equipment of any person required to obtain a Transient Occupancy Registration Certificate, or pay a Transient Occupancy Tax, or any other person visited or examined in the discharge of official duty, or the financial information, or any particular thereof, as may be set forth in any statement or application, or to permit any statement or application, or copy of either, or any book containing any abstract or particulars thereof to be seen or examined by any person, provided that nothing in this subsection shall be construed to prevent:

   (a) The disclosure to, or the examination of records and equipment of another City of Stayton official, employee, or agent for collection of taxes for the sole purpose of administering or enforcing any provisions of this Ordinance; or collecting taxes imposed hereunder.

   (b) The disclosure after the filing of a written request to that effect, to the taxpayer themselves, receivers, trustees, executors, administrators, assignees, and guarantors, if directly interested, of information as to any paid tax, any unpaid tax or amount of tax required to be collected, or interest, and penalties; further provided; however, that the City Attorney approves each such disclosure and that the City Administrator may refuse to make any disclosures referred to in this paragraph when the public interest would suffer thereby.

   (c) The disclosure of the names and addresses of any persons to whom Transient Occupancy Registration Certificates have been issued.

   (d) The disclosure of general statistics regarding taxes collected or business done in the City.

3.06.170 APPEALS TO THE STAYTON CITY COUNCIL

Any person aggrieved by any decision of the City Administrator may appeal to the City Council of the City of Stayton by filing a notice of appeal with the City Administrator within ten (10) days of the serving or the mailing of the notice of the decision given by the City Administrator. The City Administrator shall transmit said notice of appeal, together with the file of said appeal matter to the City Council who shall fix a time and place for hearing such appeal from the decision of the City Administrator. The City Council shall give the appellant not less than ten (10) days written notice of the time and placed of hearing of said appealed matter. Action by the City Council on appeals shall be by Resolution.

3.06.180 SEVERABILITY

If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance, or any part thereof, is for any reason held to be unconstitutional (or otherwise invalid), such decision shall not affect the validity of the remaining portions of this Ordinance or any part thereof. The Stayton City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional (or otherwise invalid).

3.06.190 VIOLATIONS

1. It is unlawful for any operator or other person so required to fail or refuse to register as required herein, or to furnish any return required to be made, or fail to pay the tax assessed or collected, or fail or refuse to furnish a supplemental return or other data required by the City Administrator or to render a false or fraudulent report, with intent to defeat or evade the determination of any amount due required by the Ordinance.

2. Notwithstanding paragraph (a) of this section, the City, in addition to other remedies permitted by law, may commence and prosecute to final determination in any court of competent jurisdiction, an action at law to collect the tax, interest penalties et al imposed.

3.06.200 PENALTIES

Any person willfully violating any of the provisions of this Ordinance shall be punished therefore, as provided in Section 3.06.090. (Ord. 803, August, 1999).

TITLE 3. REVENUE AND FINANCE

CHAPTER 3.08

ADVANCE FINANCING OF PUBLIC IMPROVEMENTS

SECTIONS

3.08.10 DEFINITIONS

The following are definitions for the purposes of this Chapter and for the purposes of any advance financing agreement entered into with the City of Stayton ("City") pursuant hereto and for any actions taken as authorized pursuant to this Chapter or otherwise:

A. **ADVANCE FINANCING:** means a developer's or City's payment for the installation of one or more public improvements installed pursuant to this Chapter which benefiting property owners may utilize upon reimbursing a proportional share of the cost of such improvement.

B. **ADVANCE FINANCING AGREEMENT**: means an agreement between one or more private land owner(s) or developer(s) and the City, as authorized by the Council, and executed by the City Administrator, which agreement provides for the installation of and payment for advance financing of public improvements, and may, in such agreement, require such guarantee or guarantees as the City deems best to protect the public and benefiting property owners, and may make such other provisions as the Council determines necessary and proper.

C. **ADVANCE FINANCING RESOLUTION**: means a resolution passed by the Council and executed by the Mayor designating a public improvement to be an advance financed public improvement and containing provisions for financial

reimbursement by benefiting property owners who eventually utilize the improvement and such other provisions as the Council determines in the best interest of the public.

D. **BENEFITTING PROPERTY OWNER**: means the fee holder of record of the legal title to real property which, by virtue of installation of an advance financed public improvement, may be served, all or in part, by the same. Where such real property is being purchased under recorded land sales contract, then such purchaser(s) shall also be deemed owner(s).

E. **CITY**: means the City of Stayton and shall include the following entities:
1. **COUNCIL**: means the City Council of Stayton;
2. **CITY ADMINISTRATOR:** means the City Administrator of the City of Stayton;
3. **PLANNING COMMISSION**: means the Planning Commission of the City of Stayton;
4. **PUBLIC WORKS DIRECTOR**: means the Public Works Director of the City of Stayton;
5. **CITY ENGINEER**: means the City Engineer of the City of Stayton.

F. **DEVELOPER**: means the City, an individual, a partnership, a joint venture, a corporation, a subdivider, a partitioner of land or any other entity, without limitation, who will bear, under the terms of this Chapter, the expense of construction, purchase, installation, or other creation of a public improvement.

G. **PROPORTIONAL SHARE**: means the amount of the advance financed reimbursement due from the benefiting property owner calculated in accordance with section 3.08.18(B).

H. **PUBLIC IMPROVEMENT**: means the following:
1. The grading, graveling, paving or other surfacing of any street; or opening, laying out, widening, extending, altering, changing the grade of or constructing any street;
2. The construction of sidewalks;
3. The construction or upgrading of any sanitary or storm sewer;
4. The construction or upgrading of any water line, reservoir, well, or related water facility; or
5. Any other public improvement authorized by the Council.

3.08.11 PURPOSE

The purpose of this Chapter is to ensure orderly new development by providing methods to finance necessary public improvements so that these necessary public improvements are installed concurrent with, or before, the new development occurs; to allow the City to require

that new development pay the installation cost of these necessary public improvements; to assure that these necessary public improvements are installed in accordance with adopted public facilities plans; and to reimburse developers, the City, or both for a share of costs incurred if a development or improvement provides access to public improvements for other benefiting property owners.

3.08.12 APPLICABILITY

A. In accordance with Title 17 "Land Use and Development Code," the Planning Commission or Council may condition approval of subdivisions, land partitions and conditional use permits to require that the applicant construct necessary public improvements for the development. When the development is to occur at locations where approved master planning documents show new public improvements are necessary, the Planning Commission or Council may condition approval of subdivisions, land partitions and conditional use permits to require that the applicant enter into an advance financing agreement which will best protect the public and promote the general welfare of the City.

B. In accordance with section 3.08.020, the Council may determine that an advance financed public improvement will best protect the public and promote the general welfare of the City by ensuring orderly new development. In the absence of a development application, the Council may, by option, designate the City or other public entity as the developer and direct the City Administrator to prepare an advance financing application.

C. In the event the development's subject property is in the Urban Growth Boundary, it shall be, in due course, annexed to the City.

D. The terms of the City's agreement(s) with Marion County, Stayton Fire District and others (including relationships to Projects in Stayton's Urban Growth Boundary shall be considered in action(s) taken through under the auspices of this Chapter.

3.08.13 RECEIPT OF APPLICATION

The City will receive applications, accompanied by an application fee of $150 plus the cost to prepare the analysis of the proposed public improvement, or such other amount that the Council may, from time to time, set by resolution, for advance financed public improvements, and submit such applications to the public works department. The fee will be applied against the cost of administrative analysis of the proposed advance financed public improvements, for the cost of notifying the property owners, and for recording cost. When the City, or other public entity, is the developer, the Council shall, by motion, direct the City to submit the application to the public works department without fee. Applications for advance financed public improvements are expected to be submitted and approved prior to start of work; however,

applications will be accepted for a period of six months after start of work for the public improvement.

3.08.14 CITY STAFF ANALYSIS

Upon receipt of the advance financed public improvements application, the public works department shall make an analysis of the advance financed public improvements proposal and

shall prepare a report to be submitted to the Council for review, discussion, and public hearing. Such report shall include a map showing the location and area of all benefiting properties. The report shall also include the City Engineer's estimate of the total cost of the advance financed public improvement, and a cost allocation plan to benefiting properties. If the improvement is in the City's Urban Growth Boundary, Marion County, the Stayton Fire District and other districts affected shall be provided a copy of the report by the City Administrator.

3.08.15 PUBLIC HEARING

Within a reasonable time after the public works department has completed its analysis and report to the City Administrator, an informational public hearing before the Council shall be held in which all parties and the general public shall be given the opportunity to express their views and ask questions pertaining to the proposed advance financed public improvements. Since advance financed public improvements do not give rise to assessments, the public hearing is for informational purposes only, and is not subject to mandatory termination due to remonstrances. The Council has the sole discretion, after the public hearing, to decide whether or not an advance financing resolution shall be approved.

3.08.16 NOTIFICATION

Not less than seven (7) nor more than thirty days prior to any public hearing being held pursuant to this Chapter, the developer, all benefiting property owners, and the general public (and, if the improvements are within the City's Urban Growth Boundary, then Marion County, the Stayton Fire District and any other district affected) shall be notified of such hearing and the purpose thereof. Public notice shall be accomplished by a written notice posted at the Stayton City Hall and such other conspicuous locations as the Council may determine to be appropriate, and by a written notice published in a newspaper of general circulation in the community, once in either of the two consecutive weeks prior to the hearing. Notification of benefiting property owners shall also be accomplished by regular mail, or by personal service. If notification is accomplished by mail, notice shall be considered made on the date that the letter of notification is posted. Failure of any owner to be so notified shall not invalidate or otherwise affect any advance financing resolution or the Council's action to approve or not to approve the same.

3.08.17 ADVANCE FINANCING RESOLUTIONS AND AGREEMENTS

After the public hearing held pursuant to section 3.08.15,

A. If the Council desires to proceed with advance financing of a public improvement, it shall pass an advance financing resolution accordingly. The resolution shall designate the proposed improvement as an advance financed public improvement and provide for advance financed reimbursement by benefiting property owners pursuant to this Chapter. When the developer is a private developer, the advance financing resolution shall instruct the City to enter into an agreement between the developer and the City pertaining to the advance financed public improvement, and may, in such agreement, require such guarantee or guarantees as the City deems best to protect the public, benefiting property owners, and may make such other provisions as the Council determines necessary and proper.

B. If the Council rejects the application, no further action shall be taken at that time.

3.08.18 ADVANCE FINANCED REIMBURSEMENT

A. Advanced Financed Reimbursement Imposed. An advance financed reimbursement is imposed on all benefiting property owners at such time as the owners apply for connection to advance financed public improvement, or apply for building permits for projects that utilize an advance financed public improvement.

B. Rates. Benefiting property owners shall pay advance financed reimbursement calculated as follows:

1. If the advance financed public improvement is completed by a private developer, the reimbursement to the developer via the City shall be the total actual cost of the improvement, increased by seven percent annual simple interest, or such other interest rate as the Council may, from time to time, set by resolution, and applied to the cost allocation plan described in City Staff Analysis, Section 3.08.14;

2. If the advance financed public improvement is completed by a public agency, the reimbursement to the public agency shall be the total cost of the improvement increased by the same interest rate, including costs, as the public entity pays to finance construction, and applied to the cost allocation plan described in City Staff Analysis, Section 3.08.14; or

3. If the advance financed public improvement is completed without the issuance of debt by the public entity, the reimbursement to the public entity shall be to the total cost of the improvement increased by the current interest rate private

developers receive, as set forth in above subsection, and applied to the cost allocation plan described in City Staff Analysis, Section 3.08.14.

4. If inequities are created through the strict implementation of the above formulas 1, 2 or 3, the Council may modify its impact on a case-by-case basis.

C. Collection

1. The advance financed reimbursement is immediately due and payable by benefiting property owners upon their application for connection to an advance financed public improvement or any building permit the result of which will utilize any advance financed public improvement. If connection is made or construction commenced without the above-described permits, then the advance financed reimbursement is immediately due and payable upon the earliest date that any such permit was required. No permit for connection or construction shall be issued until the advance financed reimbursement is paid in full or otherwise processed in accordance with the terms of paragraph 2 of this subsection C. Whenever the full and correct advance financed reimbursement is due and has not been paid and collected for any reason, the City Administrator shall report to the Council the amount of the uncollected reimbursement, the description of the real property to which the reimbursement is attributable, the date upon which the reimbursement was due and the name or names of the benefiting property owners. The City Council, by motion, shall then set a public hearing and shall direct the City Administrator to give notice of the hearing to each of those benefiting property owners, together with a copy of the City Administrator's report concerning the unpaid reimbursement, either in person or by certified mail. Upon public hearing, the Council may accept, reject, or modify the City Administrator's report; and if it finds that any reimbursement is unpaid and uncollected, the Council, by motion, may direct the City Recorder to docket the unpaid and uncollected reimbursement in the City docket of liens. Upon completion of the docketing, the City shall have a lien against the described land for the full amount of the unpaid advance financed reimbursement, together with interest at the current legal rate, and the City's actual cost of serving notice upon the benefiting property owners. The lien shall be enforced in the manner provided by Oregon Revised Statutes Chapter 223.

2. Whenever an advance financed reimbursement is due and collectable, the benefiting property owner may apply, upon forms provided by the City Administrator, for the voluntary imposition of a lien upon the subject property for the full amount of the advance financed reimbursement and the payment of that lien in twenty equal semi-annual installments including interest at the current legal rate. The applicant must provide a certificate from a licensed title insurance company showing the identity and amount of all other liens

already of record against the property and a certificate from the County Tax Assessor showing the assessed value less the combined total principal balance and accrued interest on all prior liens. Upon receipt of such certificates and application, the City Administrator shall compute the amount of the advance financed reimbursement, the date upon which the reimbursement is due, the name or names of the applicant/owners and the description of the property; and, upon receiving that report, the City Recorder shall record the lien in the City record of liens. From the time that docketing is completed, the City shall have a lien upon the subject property for the amount of the charge and interest upon that charge at the rate established by the Council for advance financed public improvements. That lien shall be enforced in the manner provided in Oregon Revised Statutes Chapter 223.

3.08.19 DISPOSITION OF ADVANCE FINANCED REIMBURSEMENTS

Private developers shall receive a portion of advance financed reimbursement collected by the City pertaining to their advance financed public improvements. Such reimbursement shall be delivered to the developer for a period of ten years from the date the applicable advance financing agreement has been executed. In addition, any developer, or said developer's heirs, successors or assigns, may apply at five-year intervals for two five-year extensions beyond the initial ten-year period. Such reimbursement will be made by the City within ninety days of receipt of the advance financed reimbursements. Advance financed reimbursements not paid to the developer under the terms of this Chapter shall be retained by the City to be used for related system improvements as authorized from time to time by the Council.

3.08.20 RECORDING

All advance financing resolutions shall be recorded by the City in the property records of Marion County, Oregon. Such resolution shall identify full legal description of the benefiting properties. Failure to make such recording shall not affect the legality of an advance financing resolution or agreement.

3.08.21 PUBLIC IMPROVEMENTS

Public improvements established pursuant to advance financing agreements shall become and remain the sole property of the City pursuant to the advance financing agreements, and advance financed reimbursement, plus interest, not paid to the developer during the ten-year period, or any extension or extensions thereof, as set forth in section 3.08.18, shall be paid to the City to be used for related system improvement as authorized from time to time by the Council.

3.08.22 MULTIPLE PUBLIC IMPROVEMENTS

Any advance financing application may include one or more public improvements.

3.08.23 DISPUTE RESOLUTION

In the event of a dispute arising from a transaction prescribed in this Chapter, it shall first be addressed by mandatory mediation, the participants in which shall be all parties affected. If settlement cannot be reached, resolution shall be by binding arbitration and the prevailing party(ies) shall be entitled to arbitration fees and costs incurred. (Ordinance 890, Section 1, June 2006)

REVENUE AND FINANCE

CHAPTER 3.10

PRIVATE PROPERTY SUBJECT TO REGULATION

SECTIONS

3.10.010 PURPOSE

This Chapter is intended to implement the provisions added to Chapter 195 of Oregon Revised Statutes by Ballot Measure 49 (November 6, 2007). As it relates to claims within a City, Ballot Measure 49 permits compensation claims only when a nonexempt City land development regulation, enacted after January 1, 2007, restricts the residential use of private real property zoned for primarily single family residential use and it can be demonstrated in a qualified appraisal that the restriction reduces the fair market value of the real property. This Chapter establishes a prompt, open, thorough and consistent process that enables property owners an adequate and fair opportunity to present claims, while at the same time allowing the City to review the claim and make an appropriate determination of its validity and what remedy might be available; establishes a record for the City's administration of its land use program in the future; and, collects sufficient information to be capable of judicial review. Adoption of this Chapter is authorized by Oregon Revised Statutes, Chapter 195.305(5). (Ord 903, §1, April 7, 2008)

3.10.020 DEFINITIONS

Any word or term defined in ORS 195.300 shall have the meaning assigned to it by state law, unless defined below. Otherwise, as used in this Chapter, the following words and phrases mean: (Ord 903, §1, April 7 2008)

1. **Ballot Measure 49.** The measure enacted by the voters on November 6, 2007, which amended Oregon Revised Statutes Chapter 195. (Ord 903, §1, April 7, 2008)
2. **City Administrator.** The City Administrator of the City of Stayton, or designee.

3. **Claimant.** The property owner making a claim under this Chapter, or their designee, so long as written authorization is provided to the City by the property owner for the designee to represent the property owner in making a claim.

4. **Exempt Land Use Regulation.** A land use regulation that:

   a. Restricts or prohibits activities commonly and historically recognized as public nuisances under common law;

   b. Restricts or prohibits activities for the protection of public health and safety, such as fire and building codes, health and sanitation regulations, solid or hazardous waste regulations, pollution control regulations, wetlands and floodplain regulations, grading and fill regulations, landslide hazard regulations, and street regulations, setback and fencing regulations and natural resource regulations to the extent these enumerated regulations and others which are similar, to the extent they are determined necessary for fire and safety reasons; (Ord 903, §1, April 7, 2008)

   c. Is required in order to comply with federal law;

   d. Restricts or prohibits the use of property for the purpose of selling pornography or performing nude dancing;

   e. Was enacted prior to the date of acquisition of the property by the owner; or (Ord 903, §1, April 7, 2008)

   f. Imposes any development fee or systems development charge for construction, parks, sewer or water. (Ord 903, §1, April 7, 2008)

5. **Interest.** The average interest rate for a one year United States Government Treasury Bill on December 31 of each year of the period between the date the land use regulation was enacted and the date the claim was filed, compounded annually on January 1 of each year of the period. (Ord 903, §1, April 7, 2008)

6. **Reduction in fair market value.** The difference, if any, in the fair market value of the property from the date that is one year before the enactment of the land use regulation to the date that is one year after the enactment, plus interest. (Ord 903, §1, April 7, 2008)

7, **Valid Claim.** A claim submitted by the owner of real property that is subject to a land use regulation adopted or enforced by the City that restricts the use of the private real property in a manner that results in the reduction in fair market value of the real property as determined by the City pursuant to the terms of this Chapter. (Ord 903, §1, April 7, 2008)

8. **Zoned for Residential Use.** The Low Density Residential Zone as described in Stayton Municipal Code Title 17, Chapter 17.16 and shown on the Official Zoning Map. (Ord 903, §1, April 7, 2008)

3.10.030 CLAIM FILING PROCEDURES

1. A person seeking to file a claim under this Chapter must be the present owner of the property that is the subject of the claim at the time the claim is submitted. The claim

shall be filed with the City Administrator's office, or another City office if so designated by the City Administrator.

2. A claim shall include a completed claim form, which will be provided by the City, together with the following additional information:

   a. The name(s), address(es), telephone number(s) and email addresses of all owners, and anyone with any interest in the property, including lien holders, trustees, renters, lessees or easement holders, and a description of the ownership interest of each; (Ord 903, §1, April 7, 2008)

   b. The address, tax lot, and legal description of the real property that is the subject of the claim, a copy of the instrument conveying the property to the claimant, a title report issued by a title company no more than 30 days prior to the submission of the claim that reflects the ownership interest in the property, or other documentation reflecting sole ownership of the property by the claimant, and the date the property was acquired by the present owner; (Ord 903, §1, April 7, 2008)

   c. The specific current land use regulation(s) enacted after January 1, 2007, cited by reference to the Stayton Municipal Code number, that Claimant alleges restricts the use of the real property and allegedly causes a reduction in the fair market value of the subject property; (Ord 903, §1, April 7, 2008)

   d. The amount of reduction in fair market value alleged for each regulation at issue plus interest; (Ord 903, §1, April 7, 2008)

   e. An appraisal providing the fair market value of the property one year before the enactment of each land use regulation and the fair market value of the property one year after the enactment. The actual and reasonable cost of preparing the claim, evidenced by receipts, including the cost of the appraisal, not to exceed $5,000, may be added to the calculation of the reduction in fair market value. The appraisal must: (Ord 903, §1, April 7, 2008)

      i. be prepared by a person certified under ORS chapter 674 or a person registered under ORS chapter 308; (Ord 903, §1, April 7, 2008)

      ii. comply with the Uniform Standards of Professional Appraisal Practice, as authorized by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989; and (Ord 903, §1, April 7, 2008)

      iii. expressly determine the highest and best use of the property at the time the land use regulation was enacted; (Ord 903, §1, April 7, 2008)

   f. The claimant shall specify the remedy sought. Claimant may specify alternative remedies; (Ord 903, §1, April 7, 2008)

   g. Copies of any leases or Covenants, Conditions and Restrictions (CCRs) applicable to the real property, if any, that impose restrictions on the use of the property, or which would affect its valuation; (Ord 903, §1, April 7, 2008)

h. Identification of the particular use that is proposed for the real property and proof that the requested use was allowed as proposed at the time the owner acquired the real property. Where necessary, the City may require a site plan, elevation drawings, or other detailed description of the proposed use in order to determine the validity of the claim;

i. Whether a previous permit was issued for development of the property including a description of the use and case file number; (Ord 903, §1, April 7, 2008)

j. Whether a claim was filed for the subject property with the state or any other government; (Ord 903, §1, April 7, 2008)

k. A statement that any and all claims under this Chapter are included in this claim, or that if overlapping claims for the same property with other governmental entities (such as the state) exist, that they are being filed with the appropriate entity contemporaneously with the claim filed with the City. Where there is more than one claim filed on a single tract of land, the City shall have the right to consolidate those claims for determination; (Ord 903, §1, April 7, 2008)

l. Evidence the City has enforced current land use regulations against claimant's real property in such a way as to restrict the use of that real property with the effect of reducing the fair market value of that real property. In the determination of fair market value, market conditions shall be taken into account, and shall be valued as of the date of acquisition by the present owner thereof. A claim shall be considered ripe for submission when a claimant produces evidence of a land use decision that denies or conditions an approval for a use on the subject property, or citation or denial of building permit or other approval that meets the test of this Chapter for validity of a claim. The simple existence of a current land use regulation, without some affirmative enforcement thereof by the City, is not sufficient to satisfy this application requirement;

m. A list of names of property owners, certified by either a title company or the Marion County Assessor, or all current owners of record of all properties that lie within 300 feet of the perimeter boundary of the real property subject to the claim. Two copies of the list prepared on mailing labels shall be submitted; (Ord 903, §1, April 7, 2008)

n. A narrative statement from the claimant or designee which provides information about the history of the property and its ownership as well as explanation and justification for why the claim is valid, and stating precisely what remedy is being requested from the City. The narrative should include as much detail as possible about the use that is proposed, which is restricted and devalued by present land use regulations;

o. A list of any and all overlay or special Ordinances (such as landslide hazards, floodplain, wetlands, etc) that apply to the subject property, as well as any special designations that may apply to the subject property (such as downtown, historic district, LID, etc.). If the proposed use includes any development or activity that

would otherwise be excluded from this Chapter, that exclusion should be specified by the claimant;

p. Copies of any prior land use decisions or land use or building permits issued for or relating to the subject property;

q. Signatures of all owners or those claiming ownership in the real property over which the claim is being made; and

r. A deposit for costs in the amount of $1,300, or such other amount determned by the City Administrator, and which is administered, billed and collected as provided for in this Chapter. (Ord 903, §1, April 7, 2008)

3. No period of time relative to the filing of a claim shall be considered to have accrued until such time as the City has reviewed the Claim and submission requirements and deemed them to have been complete. The City shall, within 60 days of receiving the claim, notify the claimant in writing that the claim is complete or what information or fee is missing. If the initial submission is not complete, the claim shall be considered complete when the City receives (Ord 903, §1, April 7, 2008)

   a. The missing information; (Ord 903, §1, April 7, 2008)

   b. Part of the missing information and written notice from the claimant that the remainder of the missing information will not be provided; or (Ord 903, §1, April 7, 2008)

   c. Written notice from the claimant that none of the missing information will be provided. (Ord 903, §1, April 7, 2008)

   A claim shall be deemed withdrawn if the City does not receive a written response from the claimant within 90 days of the notice of an incomplete claim. (Ord 903, §1, April 7, 2008)

4. The burden of proof of the validity of a claim lies with the claimant. The burden of presenting sufficient evidence for which the City can legitimately apply the provisions of this Chapter also lies with the claimant.

3.10.040 CITY ADMINISTRATOR INVESTIGATION AND RECOMMENDATION

Following an investigation of a claim, the City Administrator or designee shall forward a recommendation to the City Council. The staff report will be available at least 14 calendar days prior to the hearing addressing (Ord 903, §1, April 7, 2008)

1. whether the claim filed is complete; (Ord 903, §1, April 7, 2008)

2. a recommendation as to (Ord 903, §1, April 7, 2008)

   a. whether and how much to pay in compensation and the basis upon which the recommendation compensation was calculated; or (Ord 903, §1, April 7, 2008)

   b. in lieu thereof, a recommendation regarding the number of dwellings and lots that may be approved and the specific land use regulation(s) that should be waived. (Ord 903, §1, April 7, 2008)

3.10.050 CITY COUNCIL PUBLIC HEARING

1. The City Council shall conduct a public hearing before taking final action on a recommendation from the City Administrator. At least 30 days prior to the public hearing, notice of the public hearing shall be provided to the claimant, to owners of property within 300 feet of the perimeter of the subject property, neighborhood groups or community organizations officially recognized by the City Council whose boundaries include the subject property, the Department of Land Conservation and Development, Marion County Planning Division, and to any other person or entity that makes written request for notice of hearing. The Rules of Procedure for Public Hearings on Land Use Issues, as last adopted by the City Council, shall apply to hearings held under this Chapter. (Ord 903, §1, April 7, 2008)

2. The notice required under subsection 1 of this section must describe the claim and state: (Ord 903, §1, April 7, 2008)

   a. The date, time and location of the hearing and the final date for submission of written evidence and arguments relating to the claim; (Ord 903, §1, April 7, 2008)

   b. That judicial review of the final determination of a public entity on the claim is limited to the written evidence and arguments submitted to the City; and (Ord 903, §1, April 7, 2008)

   c. That judicial review is available only for issues that are raised with sufficient specificity to afford the City an opportunity to respond. (Ord 903, §1, April 7, 2008)

3. Except as provided in subsection (4) of this section, written evidence and arguments in proceedings on the claim must be submitted to the City not later than: (Ord 903, §1, April 7, 2008)

   a. The close of the final public hearing on the claim; or (Ord 903, §1, April 7, 2008)

   b. If a public hearing is not held, the date that is specified by the public entity in the notice required under subsection (1) of this section. (Ord 903, §1, April 7, 2008)

4. The claimant may request additional time to submit written evidence and arguments in response to testimony or submittals. The request must be made before the close of testimony or the deadline for submission of written evidence and arguments. (Ord 903, §1, April 7, 2008)

5. The City shall make the record on review of a claim, including any staff reports, available to the public before the close of the record as described in subsections 3 and 4 of this section. (Ord 903, §1, April 7, 2008)

6. The City shall mail a copy of the final determination to the claimant and to any person who submitted written evidence or arguments before the close of the record. The City shall forward to Marion County, and the County shall record, a memorandum of the final determination in the deed records. (Ord 903, §1, April 7, 2008)

3.10.060 CITY COUNCIL ACTION ON CLAIM

1. Upon conclusion of the public hearing, and prior to the expiration of 180 days from the date the claim was deemed complete, the City Council shall:

    a. Deny the demand based on, but not limited to, any one or more of the following findings and conclusions:

        1. The land use regulation does not restrict the use of the private real property;

        2. The fair market value of the property is not reduced by the enactment, enforcement or application of the land use regulation;

        3. The claim was filed within 5 years from the date the land use regulation was enacted; (Ord 903, §1, April 7, 2008)

        4. The owner failed to comply with the requirements for making a claim as set forth in this Chapter; (Ord 903, §1, April 7, 2008)

        5. The claimant is not the present property owner or was not the property owner at the time the land use regulation was enacted, enforced or applied; (Ord 903, §1, April 7, 2008)

        6. The land use regulation is an exempt regulation as defined in this Chapter or in ORS 195.308; (Ord 903, §1, April 7, 2008)

        7. The land use regulation in question is not an enactment of the City;

        8. The City has not taken final action to enact, enforce or apply the land use regulation to the property;

        9. The owner is not entitled to compensation under this Chapter, for a reason other than those provided herein; or

    b. Adopt a Resolution with findings therein that supports a determination that the claim is valid, and determines the appropriate remedy for the claim. The City Council may direct that the claimant be compensated in an amount set forth in the Resolution for the reduction in value of the property as provided for herein, or the City Council may direct the removal or modification to the challenged land use regulation as it relates to the subject property. In determining the claim is valid, the Council shall find, based on a demonstration from the claimant that: (Ord 903, §1, April 7, 2008)

        1. A city enacted land use regulation enacted after January 1, 2007 and after the property was acquired restricts the residential use of the property; (Ord 903, §1, April 7, 2008)

        2. The land use regulation has the effect of reducing the fair market value of the property; (Ord 903, §1, April 7, 2008)

        3. The highest and best use of the property at the time the property was acquired is the claimant's desired use of the property; (Ord 903, §1, April 7, 2008)

4. The land use regulation is not an exempt land use regulation; (Ord 903, §1, April 7, 2008)
5. The time limitations for filing a claim, as specified in Measure 49, have not been exceeded; and (Ord 903, §1, April 7, 2008)
6. All other requirements of this Chapter and Ballot Measure 49 have been met. (Ord 903, §1, April 7, 2008)

2. The City Council's decision as to the validity of the claim shall be based on the provisions of Ballot Measure 49 and as implemented through this Chapter. (Ord 903, §1, April 7, 2008)
3. The City Council's decision as to the remedy to provide in the event of a valid claim being established shall be based on whether the public interest would be better served by compensating the owner or by removing or modifying the challenged land use regulation with respect to the subject property; the availability of funds; the request of the claimant; testimony and evidence presented during the public hearing; and the recommendation of City Staff. (Ord 903, §1, April 7, 2008)
4. If the City Council removes or modifies the challenged land use regulation, it may, at its discretion, put back into effect with respect to the subject property, all of the land use regulations in effect at the time the claimant acquired the property.
5. The City Council shall have the right to condition any grant of waiver or modification of land use regulations for any purpose which protects the health, safety and welfare of the public. Any condition so imposed must be clear and concise and related directly to the claim and the use being proposed therein. Failure to comply with any condition of approval is grounds for revocation of the approval of the claim, grounds for recovering any compensation paid and grounds for revocation of any other action taken under this Chapter. All conditions, time limits or other restrictions imposed with approval of a claim will bind all subsequent owners of the subject property.
6. A decision by the City Council to remove or modify a land use regulation shall result in the proposed use allowed by the waiver or modification being thereafter considered a non-conforming use under Oregon Revised Statutes 215.130, Oregon Administrative Rules, and the Stayton Land Use Development Code. Upon grant of waiver or modification, the claimant shall cause notice thereof by way of a "License" form provided by the City, to be recorded in the deed records of the subject property so that all future owners thereof are put on notice of the non-conforming use status of the development on the subject property. (Ord 903, §1, April 7, 2008)
7. Any waiver or modification of land use regulations granted pursuant to this Chapter shall be exercised within six (6) years of the grant of waiver or modification. Any waiver or modification not exercised within six (6) is automatically terminated and of no further force and effect.
8. An authorization to partition or subdivide the property, or to establish dwellings on the property, granted under this Chapter runs with the property and may be either transferred with the property or encumbered by another person without affecting the

authorization. There is no time limit on when an authorization granted under Chapter must be carried out, except that once the owner who obtained the authorization conveys the property to a person other than the owner's spouse or the trustee of a revocable trust in which the owner is the settlor, the subsequent owner of the property must create the lots or parcels and establish the dwellings authorized by the waiver within 10 years of the conveyance. (Ord 903, §1, April 7, 2008)

3.10.070 PROCESSING FEE/DEPOSIT REQUIRED

1. The City shall maintain a record of the City's costs in processing a claim, including the costs of obtaining information required herein which a property owner does not provide to the City. At such time as the deposit is exhausted, the City Administrator may require an additional deposit in an amount deemed sufficient to complete City action on the claim. Following final action by the City on the claim, the City Administrator shall send to the property owner a final bill showing the total actual costs, including staff and legal costs, that the City incurred in reviewing and acting on the claim, together with the deposits posted, and either refund or bill the balance as dictated by the deposit ledger.

2. If the property owner owes an amount to the City as calculated in Section 3.10.070.7.1 above, and does not pay the amount due within 30 days, then the City shall pursue collection, including filing a lien on the property. The City shall be entitled to costs of collection, including attorney fees, costs and disbursements incurred in collection. (Ord 903, §1, April 7, 2008)

3.10.080 APPELLATE RIGHTS

Any decision under this Chapter is not a land use decision, and none of the formalities required of land use decisions by statue, rule or local Ordinance are necessary. A person that is adversely affected by a final determination of the City Council under this Chapter may obtain judicial review as provided for in ORS 195.318. (Ord 903, §1, April 7, 2008)

3.10.090 RECORD KEEPING

The City shall keep a central record of all claims made hereunder and the disposition thereof. Specific notation shall be made on the comprehensive plan and zone maps of the existence and extent of any waiver or modification granted under this Chapter. The City shall provide basic information on the filing and disposition of all claims at any central repository established by the Department of Land Conservation and Development.

3.10.100 INTERPRETATION/NO THIRD PARTY CAUSES OF ACTION ARE ESTABLISHED

For all claims filed, the applicable state law is Oregon. Any demand that has not been processed completely under this Chapter shall be subject to any such amendments, modifications, clarifications or other actions taken at the state level and this Chapter shall be read in a manner so as not to conflict with such amendments, modifications, clarifications or other actions taken at the state level. This Chapter is adopted solely to address demands filed under the authority of those provisions of Oregon Revised Statutes Chapter 195 added or made a part of the Chapter by

Ballot Measure 49, passed November 6, 2007. This Chapter is not intended to create any cause of action in any third party against either the City or the claimant on account of the issuance of any remedy to any claim determined to be valid hereunder. This extends to neighbors, security interest holders, special interest groups or any other person or entity with an interest in the outcome of any claim.

3.10.110 TAX ASSESSMENT

In the event a claim is determined to be valid, and the remedy granted is waiver or modification of a land use regulation, the Marion County Tax Assessor shall be notified of the change in use.

TITLE 3. REVENUE AND FINANCE

CHAPTER 3.12

URBAN RENEWAL

SECTIONS

3.12.010 DECLARATION OF BLIGHT

Pursuant to ORS 457.035, the City finds and declares that blighted areas, as defined in ORS 457.010, exist within the City of Stayton based upon the following findings:

A. There exists within the City of Stayton blighting conditions as defined by ORS 457.010(1), and that the City is interested in improving conditions in such areas; and

B. That blighting conditions exist within an area encompassing the downtown core area of the City, and areas adjacent and contiguous to the core area. Blighting conditions in this area are described in the Downtown Transportation and Revitalization Plan adopted October 15, 2007. The Plan notes the following conditions:

1. Deficiencies in streets, curbs and sidewalks in the area;

2. Deficiencies in water, sanitary sewer, and storm sewer facilities in the area;

3. A high percentage of properties in the area with low assessed values, producing low tax revenues for taxing bodies; and

4. Evidence of substandard building maintenance in the area.

3.12.020 NEED

It is recognized that there is a need for an Urban Renewal Agency to function within the City of Stayton.

3.12.030 POWERS AND LMITATIONS

Pursuant to ORS 457.045(2), all of the rights, powers, duties, privileges and immunities granted to and vested in an Urban Renewal Agency by the laws of the State of Oregon shall be exercised by and vested in the Stayton Downtown Urban Renewal Agency, provided, however, that any act of the governing body acting as the Stayton Downtown Urban Renewal Agency shall be considered, the act of the Stayton Downtown Urban Renewal Agency only and not of the City Council.

3.12.040 AGENCY TITLE

The name of the agency shall be the “Stayton Downtown Urban Renewal Agency.”

3.12.050 MEMBERSHIP

The Stayton Downtown Urban Renewal Agency shall be comprised of nine (9) members, including the members of the Stayton City Council as it lawfully exists from time to time; the Stayton Mayor; and three (3) additional positions. These three (3) positions shall be filled by at least one (1) member of the Stayton Planning Commission and at least one (1) owner of property within the designated Urban Renewal District.

CHAPTER 3.16

VERTICAL HOUSING DEVELOPMENT ZONE

SECTIONS

3.16.010 PURPOSES, OBJECTIVES AND DURATION

1. This Chapter is adopted to carry out the provisions of ORS 307.841 to 307.867 as they pertain to the administration by the City of Stayton (the "City") of the Vertical Housing Development Zone Program described herein (the "program"). The basic purpose of the program is to encourage construction or rehabilitation of eligible properties in order to augment the availability of suitable housing and to revitalize the downtown area. This Chapter sets forth relevant aspects of the program, including the application and approval of Certified Projects, for the calculation of any applicable partial property tax exemptions, and for the monitoring and maintenance of properties as qualifying Certified Projects.
2. This Chapter is not meant to interfere with the direct administration of property tax assessments by the Marion County Assessor and does not supersede administrative rules of the Oregon Department of Revenue in OAR chapter 150 pertaining to the valuation of property for purposes of property tax assessments, including as adopted or amended in the future.
3. This Chapter shall sunset on January1, 2026 unless extended under the authority of state law.
4. The termination of the program under this Chapter does not affect the exemption from tax under ORS 307.864 of any property of a vertical housing development project that was certified prior to termination of the program and that continues to qualify for the exemption at the time of the termination, up to 10 years of exemption.

3.16.020 DEFINITIONS

As used in this Chapter, unless the context indicates otherwise:

1. "Certified Project" or "project" means a multi-story development within a VHDZ that the City certifies as a vertical housing development project qualifying for a vertical housing partial property tax exemption under this Chapter based on a proposal and description from a project applicant that conforms to City requirements.
2. "Construction" means the development of land, and the new construction of improvements to land as further described in this Chapter.
3. "County Assessor" means the Marion County Assessor
4. "City" means the City of Stayton.
5. "Director" means the director of the Planning and Development Department or someone within the City authorized to act on behalf of the director for purposes of the program.
6. "Displacement" means a situation in which a household is forced to move from its current residence due to conditions that affect the residence or the immediate surroundings of the residence and that:
    a. A reasonable person would consider to be beyond the household's ability to prevent or control;

b. Occur despite the household's having met all previously imposed conditions of occupancy; and

c. Make continued occupancy of the residence by the household unaffordable, hazardous or impossible.

7. "District" means a local taxing district.

8. "Equalized floor" means the quotient that results from the division of total square footage of a project by the number of actual floors of the project that are at least 500 square feet per floor, or as may be increased or otherwise qualified by the city by rule.

9. "Low-income residential housing" means housing that is restricted to occupancy by persons or families whose income is no greater than 80 percent of Salem Metropolitan Statistical Area median income, adjusted for family size.

10. "Median family income" means median family income by household size for the Salem Metropolitan Statistical Area as defined by the United States Department of Housing and Urban Development as adjusted and published periodically.

11. "Non-residential use" means any use that is not exclusively residential use and may include building features that are elements of construction including corridors, elevators, stairways, lobbies, mechanical rooms, and community rooms. Non-residential areas may include units designated as live-work spaces in accordance with City zoning requirements.

12. "Project applicant" means an owner of property within a VHDZ, who applies in a manner consistent with this Chapter, to have any or all such property approved by the City as a Certified Project.

13. "Rehabilitation" means repair or replacement of improvements, including fixtures, or land developments, the cost of which equals at least 20 percent of the real market value of the improvements or land developments being repaired or replaced.

14. "Residential use" means regular, sustained occupancy of a residential unit in the project by a person or family as the person's or family's primary domicile, including residential units used primarily for transitional housing purposes, but not units and related areas used primarily as:

a. Hotels, motels, hostels, rooming houses, bed & breakfast operations or other such temporary or transient accommodations; or

b. Nursing homes, hospital-type in-patient facilities or other living arrangements, even of an enduring nature, where the character of the environment is predominately care-oriented rather than solely residential.

15. "Vertical housing development project" or "project" means the construction or rehabilitation of a multiple-story building, or a group of buildings, including at least one multiple-story building, so that a portion of the project is to be used for non-residential uses and a portion of the project is to be used for residential uses.

16. "Vertical housing development zone" or "VHDZ" or "zone" means an area that has been and remains designated by the City as a vertical housing development zone and is further described in Section 3.16.040.

3.16.030 ADMINISTRATION AND ENFORCEMENT

The Director is responsible for the implementation, administration and enforcement of this Chapter. The Director may adopt such policies and procedures as are necessary to efficiently and effectively carry out that responsibility, consistent with the provisions of this Chapter.

3.16.040 ZONE DESIGNATIONS

1. Downtown Vertical Housing Development Zone. There is hereby established a VHDZ in the downtown Stayton area. The boundaries of the Downtown VHDZ shall be the combined area of the three downtown mixed use zones as designated on the Official Zoning Map referred to in Section 17.16.020.3 and amended as of January 3, 2018, and shown as Figure 3.16.040.1, below. The North Santiam School District and the Stayton Fire District have elected to not participate in the Downtown VHDZ. A Certified Project within the Downtown VHDZ does not receive an exemption from the taxes imposed by North Santiam School District or the Stayton Fire District.

2. The City may designate additional zones by resolution. Before designating a VHDZ, the City must notify the local taxing districts that have territory in the proposed VHDZ of the City's intention to designate a VHDZ. A local taxing district may elect not to participate in a VHDZ. A local taxing district that elects not to participate may continue to impose taxes on property otherwise exempt from ad valorem property tax under ORS 307.864. The City must consider the potential for displacement of households within a proposed VHDZ before designating the zone. The resolution establishing VHDZ may not be adopted sooner than 60 days after sending the notice to local taxing districts. The resolution shall:

    a. Contain a description of the area sought to be designated as a VHDZ, including proposed zone boundaries;

    b. Contain a statement attesting that the notification described above was sent by regular mail to each local taxing district;

    c. Contain a list of the local taxing districts that elected not to participate in the VHDZ;

    d. Address the reasons that the City finds the designation of the zone will improve housing affordability within the City and fulfill the purposes of ORS 307.841 to 307.867.

    The City may approve multiple VHDZs within its jurisdiction. The boundaries of VHDZs may not overlap. A property may only be in one VHDZ.

3.16.050 LOCAL TAXING DISTRICTS AND ZONE DESIGNATIONS

1. Prior to adoption of a resolution designating a VHDZ the City shall:

    a. Prepare a list of local taxing districts that have territory in the proposed VHDZ.

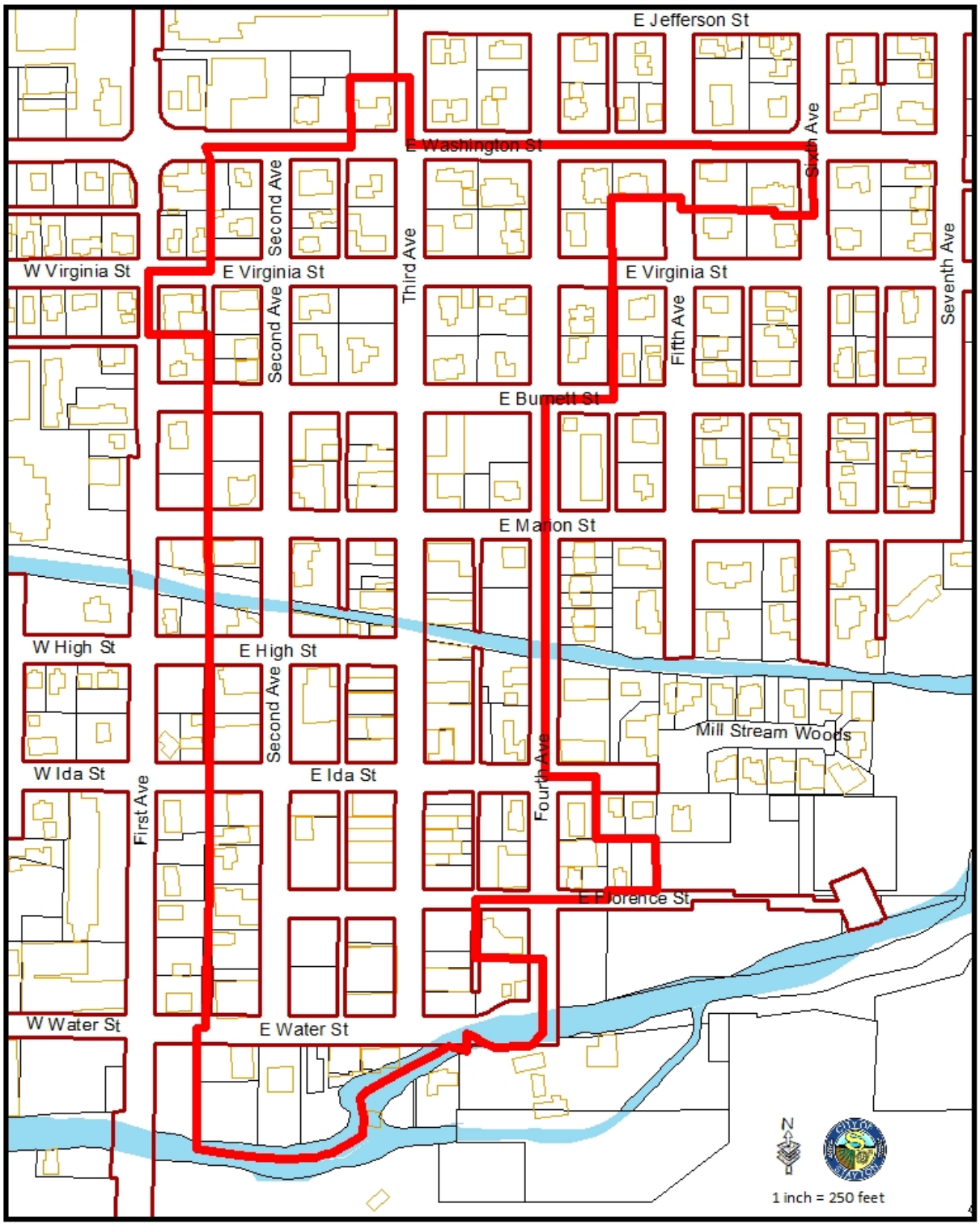
    b. By regular mail, send a notice to the local taxing districts listed pursuant to paragraph 1 above that:

        (1) Describes the proposed VHDZ;

        (2) Explains the exemption described in ORS 307.864 that would apply if the proposed zone is designated; and

Figure 3.16.040.1

Downtown Vertical Housing Development Zone



(3) Explains the process by which a local taxing district may elect not to participate in the VHDZ.

2. To elect not to participate in a VHDZ, a local taxing district shall, within 30 days after the date on which proper written notification is received by the district from the City inform the City in writing of its decision to opt out of the VHDZ designation.

3.16.060 NOTICE TO COUNTY ASSESSOR

The City will send a copy of any designation of a VHDZ to the Oregon Department of Revenue and to the Marion County Assessor's office. The City will include with the notification to the County Assessor:

1. A written description of and a map showing the boundaries of the VHDZ; and

2. The name of any local taxing district that elected not to participate in the VHDZ.

3.16.070 ZONE TERMINATION OR MODIFICATION

1. The City may terminate all or part of the VHDZ at any time. Any such termination will not affect existing Certified Projects and is not subject to administrative or judicial review.

2. The City may approve a Certified Project after VHDZ termination if the application for certification of the Project was pending with the City prior to the City terminating the VHDZ. However, the City may consider the VHDZ termination in determining whether or not to approve the application for a Certified Project.

3. The City will send notice of its termination of a VHDZ to any pending applicant, the County Assessor, and owners of Certified Projects, of whom the City is aware.

4. Subsequent VHDZs may include areas from a terminated VHDZ. A new VHDZ may be designated, or an existing VHDZ expanded or reduced, so that there is no discontinuance of a VHDZ designation for any areas where the VHDZ designation is intended to endure.

3.16.080 APPLICATION FOR PROJECT CERTIFICATION

1. A project applicant may file an application for certification of a project by completing the vertical housing project application form, as prescribed by and available from the City, and by delivering it during normal business hours or by mail to the Planning and Development Department.

2. Projects must be described in terms of entire tax parcels. Projects may not include partial tax parcels.

3. Each phase of a phased development, whether vertical or horizontal, will require a separate application.

4. The City will review applications upon their appropriate delivery subject to, but not limited to:

   a. Applications being complete and consistent with City requirements; and

   b. Delivery to the City of an application processing fee, monitoring fee and any other related fees. In determining fees for each project applicant, the City may consider factors including, but not limited to, known and expected costs in processing the application, effecting appropriate monitoring of the project and otherwise administering the program with respect to the project. The fees authorized by this subsection shall be established by resolution of the City Council. Payment of fees may be made by check or credit card

payable to the City and must be submitted along with the project application or as otherwise required by the City.

5. For new construction projects to qualify for certification, the application must be delivered to the City before:

   a. The relevant permitting authority has issued a permanent certificate of occupancy; or

   b. If no certificate of occupancy is required, then the application must be filed on or before the date on which residential units that are part of the vertical housing development project are ready for occupancy.

6. For rehabilitation to qualify for certification, the application must be delivered to the City at any stage of the rehabilitation, but not after rehabilitation work on the project is complete and the project is ready for occupancy. The City may provide a preliminary certification of the project pending completion of the rehabilitation of the project. Notification of the project's completion, together with appropriate documentation of the actual costs of the rehabilitation and the real market value of the pre-rehabilitated project must be forwarded by the project applicant to the City within 90 days of project completion. The City may certify all or part of a rehabilitated project or of a project where the rehabilitation is still in progress as a Certified Project.

7. Project applicants must provide the following information in a manner satisfactory to the City:

   a. The address and boundaries of the proposed project including the tax lot numbers, a legible and scaled site plan of the proposed project, and a legal description of the land involved in the project for which a partial tax exemption is sought by the project applicant;

   b. A description of the existing condition of the proposed project property;

   c. A description of the proposed project including, but not limited to current architectural plans that include verifiable square footage measurements; and designation of the number of project floors;

   d. A description of all non-residential areas with related and total square footages including the proportion of total square footage of project proposed for non-residential uses, and identification of all non-residential uses;

   e. A description of all residential areas, including number and type of units, with related and total square footages including the proportion of total square footage of project proposed for residential uses;

   f. A description of the number and nature of low-income residential housing units with related and total low-income residential housing square footages;

   g. Confirmation that the project is entirely located in an established VHDZ;

   h. A commitment from the project applicant, acceptable to the City, that the project will be maintained and operated in a manner consistent with the project application and the program for a time period acceptable to the City and not less than the term of any related property tax exemption;

   i. A calculation of equalized floors, an allocation of equalized floors to residential uses and an allocation of equalized floors to low income residential housing;

j. Documentation establishing the costs of construction and rehabilitation with respect to the project;

k. A statement from the applicant that the applicant further agree to cooperate fully with all monitoring and investigatory actions by the City, should the application be approved; and

l. Such other information as the City, in its discretion, may require.

For purposes of this section, square footage does not include areas used for patios, porches, deck space, or parking, unless these areas are demonstrated to the satisfaction of the City to be economically necessary to the project or the City otherwise determines that it is appropriate to include the areas in the square footage;

8. The City may request such other information from a project applicant and undertake any investigation that it deems appropriate in processing any project application or in the monitoring of a Certified Project. By filing an application, a project applicant irrevocably agrees to allow the City reasonable access to the project and to project-related documents, including the right to enter onto and inspect the project property and to copy any project-related documents and agrees to provide an annual report of the property as further described in Section 3.16.130.

9. In its application, the project applicant must verify such substantial alteration and enhancement. The following actions, by themselves, are not sufficient to satisfy this substantial alteration and enhancement requirement irrespective of cost or implementation throughout a project:

   a. Ordinary maintenance and repairs;

   b. Refurbishment or redecoration that merely replaces, updates or restores certain fixtures, surfaces or components; or

   c. Similar such work of a superficial, obligatory or routine nature.

10. Unless an exception is granted by the City, projects "in progress" at the time of application may include only costs incurred within six (6) months of the application date. Factors that the City may consider in determining whether or not to grant an exception to the six (6)-month limitation on costs include, but are not limited to the following:

    a. Delay due to terrorism or acts of God;

    b. Delay occasioned by requirements of the City;

    c. Resultant undue hardship to the project applicant;

    d. The complexity of the project; and

    e. The benefit of the project to the community.

11. For applications filed before project completion, the City may provide a conditional letter of prospective certification of the project pending its completion. To obtain a final certification of the project, the project applicant must provide timely notification to the City of the project's completion, together with a copy of the certificate of occupancy and other information as the City may require. A project applicant must provide the notice and required documentation to the City within 90 days of project completion which is typically the date of the certificate of occupancy unless the City determines that another date is more appropriate.

12. If an application is rejected for failure to meet City review requirements, then:

a. The City will notify the project applicant that the application has been rejected; and

b. The City, at its own discretion, may allow the resubmission of a rejected application for project certification ("as is" or with appropriate corrections or supplementations) or may reconsider a determination by it to reject an application. Factors that the City may consider in allowing a resubmission of a rejected application or the reconsideration of a determination by it to reject an application include, but are not limited to the following:

(1) Whether or not rejection results in undue hardship to the project applicant;

(2) The best interests of the community;

(3) The level of cooperation from the project applicant;

(4) The level and materiality of initial non-compliance by the project applicant, and;

(5) Mitigation of any initial non-compliance by the project applicant.

c. If the City accepts for review a previously rejected application, it may do so, at its sole discretion, on a prospective basis or based upon the original date of filing. Factors that the City may consider in determining the date to apply to a previously rejected application include, but are not limited to the following:

(1) Whether or not occupancy or readiness to occupy residential units in the project has occurred since the original application;

(2) Whether or not undue hardship would result to the project applicant;

(3) The best interests of the community;

(4) The level and materiality of non-compliance in the initial application.

3.16.090 PROJECT CRITERIA

1. The City will evaluate each accepted application to determine whether or not to certify the proposed project. A project, to qualify for City certification, must satisfy each of the following criteria:

a. The project must be entirely located within an approved VHDZ;

b. The project must include one or more equalized floors;

c. The project must be comprised of a multiple-story building, or a group of buildings, including at least one multiple-story building, so that a portion of the project is to be used for non-residential uses and a portion of the project is to be used for residential use;

d. A portion of the project must be committed, to the City's satisfaction, for residential use and a portion of the project must be committed, to the City's satisfaction, for use as non-residential use;

e. The commitment to non-residential use must be accomplished as follows:

(1) At least 50 percent of the project's ground floor that fronts on the primary public street must be committed to nonresidential use. If a project has access to only one public street, the square footage of driveways, loading docks, bike storage, garbage receptacles and building entryways shall be excluded before applying the 50 percent test;

(2) For the project's ground floor to be considered committed to nonresidential use, all ground floor interior spaces that front on the primary public street must be constructed to building code standards for commercial use, are planned for commercial use and/or live-work use upon completion, or both;

(3) If a project has frontage on more than one public street, the "primary public street" shall be the numbered avenue or may be designated by mutual agreement between the applicant and the City.

(4) For purposes of this section, "public streets" include all publicly-owned streets, but does not include alleys;

(5) For purposes of this rule, "live-work" spaces shall have the same meaning as “live-work unit” in Section 17.04.100. Any live-work space is deemed to be committed for non-residential use under the program. The work portion of a live-work unit must have direct access to street level entrances of the project.

f. Each project must be on its own tax parcel;

g. Construction or rehabilitation must have been started on each building included in the project, including but not limited to, additions that expand or enlarge an existing building;

2. To qualify to be a Certified Project, the rehabilitation of any existing improvement must substantially alter and enhance the utility, condition, design or nature of the structure. In determining whether or not proposed or completed rehabilitation is satisfactory or substantial, the City may consider factors including, but not limited to:

a. The quality and adequacy of design, materials and workmanship;

b. The quantity of rehabilitation in proportion to the total cost of the project and between the area devoted to residential use and area devoted to non-residential use;

c. The distribution of rehabilitation throughout the project, including as it relates to the habitability of residential areas, and particularly low-income residential housing areas; and

d. The value of the improvements on a project. The value of the improvements must be at least 20 percent of the real market value of the entire project on the last certified assessment roll before the City, in consideration of other factors, will deem rehabilitation to be "substantial" in nature.

3. Certified Projects with at least one equalized floor of low-income residential housing may qualify for a partial property tax exemption with respect to the land contained within the tax lot upon which the Certified Project stands, but will not qualify for a partial property tax exemption under the program for land adjacent to or surrounding the Certified Project contained in separate tax lots. Excess or surplus land that is not necessary for the project, as determined by the City, will not be eligible for partial exemption;

4. Low-income residential housing floors or units must be set-aside as such for the entire tax year and occupied only by people who are income eligible in order for the project to qualify for the low income vertical housing exemptions on land;

5. The non-residential use of a particular floor or floors may be satisfied even if the entire floor is not devoted to that use; and

6. Low-Income residential housing units in the Certified Project must continue to meet the income eligibility requirements for the definition of low-income residential housing for the entire period for which the vertical housing project is certified.

3.16.100 CITY CERTIFICATION OF PROJECTS

1. The City will endeavor to process each accepted application and make a determination whether or not to approve such application, in whole or in part, within 60 days of when the accepted application is received by the City.

2. If the application is approved, the City will:

   a. Issue a letter to the project applicant describing the Certified Project with an explanation of the partial property tax exemption effective for the Certified Project; and

   b. Send a copy of the project information to the County Assessor.

3. The owner of a Certified Project must execute and record a Project Use Agreement, including restrictive covenants running with the land and equitable servitudes, satisfactory to the City in the Marion County records. Recordation of such instruments satisfactory to the City constitutes a condition precedent to the approval of the Certified Project taking legal effect. The City may void any Certified Project approval for failure to timely record and provide the City with a copy of any such instruments. The owner shall be responsible for the cost of recording and providing satisfactory evidence to the City that such instruments have been properly recorded.

4. If the application is denied, the City will send written notice of the denial to the project applicant. At its option, the City may allow reapplication by the project applicant consistent with Section 3.16.080.14.

5. Certification by the City of a project may be partial in scope. The City's letter of approval will identify what portions of the property and improvements included in the project application constitute the Certified Project.

6. The letter of approval from the City also may include such information and instructions as the City deems appropriate.

7. Appeal of City Determination.

   a. If an application is denied by the City, the applicant may appeal the City’s decision to the City Council by filing a written request with the City Manager for consideration by the City Council. An appeal shall be filed within 30 days of the notice of the City’s decision. Such appeal shall include a written statement that describes with particularity the decision of the City and the nature of the determination being appealed, the reason the determination is incorrect, and what the correct determination should be.

   b. Unless the applicant and the City agree to a longer period, the appeal shall be heard within thirty (30) days of the receipt of the appeal and written statement. At least ten (10) business days prior to the hearing, the City Recorder shall mail notice of the date, time, and location thereof to the applicant.

c. The City Council shall hear and determine the appeal on the basis of the applicant's written statement and any additional evidence the City Council deems appropriate. At the hearing, the applicant may present testimony and oral argument personally or by representative. City staff may present written or oral testimony at this same hearing. The rules of evidence as used by courts of law do not apply. The applicant shall carry the burden of proving that the determination being appealed is incorrect and what the correct determination should be.

d. The City Council shall render its decision within fifteen (15) days after the hearing date. The decision shall be in writing, but written findings shall not be made or required unless the City Council in its discretion elects to make findings for precedential purposes. The City Council's decision on the appeal shall be final and is not subject to further judicial or administrative review.

3.16.110 PROJECT MONITORING FEE/MODIFICATION OR TRANSFER OF OWNERSHIP

1. A monitoring fee shall be paid by the project applicant to the City at the time of project application, or as otherwise directed by the City, to cover the City's actual and anticipated costs of monitoring and otherwise addressing compliance by the Certified Project with program requirements including, without limitation ORS 307.841 to 307.861 and other applicable law. The City may consider factors including but not limited to the following in determining the amount of this monitoring fee:

   a. The size of the project;

   b. The number of residential housing units;

   c. The amount of commercial space, including any live-work units;

   d. Project uses;

   e. Project location;

   f. The duration and complexity of compliance requirements;

   g. The level and amount of staff or other services involved;

   h. The use of supplies, equipment or fuel; and

   i. The number of separate sites and/or buildings.

2. The City may condition its approval of a Certified Project upon payment by project applicant of the applicable fee described above in 3.16.110.1. The City may void or terminate the certification of all or a portion of a Certified Project if such fees, or any part thereof, are not timely paid.

3. Modifications to or transfers of ownership of a Certified Project must receive prior written approval from the City. The City will not unreasonably withhold its approval of such modifications to or transfers of ownership. The City may void or terminate the certification of all or a portion of a Certified Project if modifications to or transfers of ownership are made without its prior written approval except where such modifications or transfers occur by operation of law following death or divorce.

4. If there are proposed or actual modifications to or transfers of ownership of the Certified Project, the Certified Project owner shall notify both the County Assessor and the City of the new owner's name, contact person, mailing address and phone number within 30 days of the change.

5. The City may require the Certified Project owner to pay an administrative fee to cover the City's actual and anticipated costs of reviewing and processing such modification or transfer including, without limitation, effecting the legal review, amendment, execution or recording of related documents.

6. The City may condition its approval of a modification to or transfer of ownership in a Certified Project upon payment by the Certified Project owner of the administrative fee described above in subsection 5. The City may void or terminate the certification of all or a portion of a Certified Project if such an administrative fee, or any part thereof, is not timely paid.

3.16.120 MONITORING; INVESTIGATIONS; REMEDIES; DECERTIFICATIONS

1. The City may monitor and investigate Certified Projects for compliance with program requirements and other applicable law as it deems appropriate. Project applicants shall prepare an annual report to the City on the number of residential housing units; number of low-income residential housing units; and amount of commercial space, including live-work units.

2. The City may undertake any remedial action that it determines to be necessary or appropriate to enforce City interests or program requirements including, without limitation, commitments provided by project applicants in the final application and certification. Remedial actions may include, but are not limited to:

   a. The requesting of project documentation including but not limited to current rents on an annual basis and lease agreements with redacted personal information;

   b. The issuance of orders and directives with respect to the project or otherwise:

   c. The initiation and prosecution of claims or causes of action, whether by administrative hearing, civil action or otherwise (including, without limitation, actions for specific performance, appointment of a receiver for the Certified Project, injunction, temporary restraining order, recovery of damages, collection of fees, etc.); and

   d. The decertification of all or a portion of a Certified Project.

3. Prior to decertifying all or part of a Certified Project and directing the County Assessor to disqualify all or part of the project for partial property tax exemption treatment, the City shall issue a decertification notice to the Certified Project owner identifying relevant factors among the following:

   a. The property decertified from the project;

   b. The number of equalized floors that have ceased qualifying as residential housing for purposes of the program;

   c. The number of equalized floors that have ceased qualifying as low-income residential housing for purposes of the program;

   d. The remaining number of equalized floors of residential housing in the project and a description of the property of each remaining equalized floor;

   e. The remaining number of equalized floors of low-income residential housing in the project and a description of the property of each remaining equalized floor of low-income residential housing;

f. If the project no longer includes commercial space consistent with the intent of the program; and

g. Such other information as the City may determine to provide.

4. Prior to issuance of a notice of decertification, the City will provide the Certified Project owner with notice of an opportunity to correct first-time program noncompliance within a reasonable amount of time as determined by the City. The City also may elect to provide the Certified Project owner with notice of an opportunity to correct repeat program non-compliance within a reasonable amount of time as determined by the City. In deciding whether or not to provide the Certified Project owner with notice of an opportunity to correct repeat program non-compliance and in determining how much time to provide the Certified Project owner to correct any noticed program non-compliance, the City may consider factors including, but not limited to:

   a. The severity of the non-compliance;

   b. The impact of non-compliance upon project tenants and patrons;

   c. The public interest in appropriate and affordable housing;

   d. The public interest in the revitalization of relevant communities;

   e. The cost and time reasonably necessary to correct program noncompliance; and

   f. The past history of compliance and non-compliance by the project owner.

5. For those instances where the City has elected to provide notice to a Certified Project owner of its non-compliance, if the City determines that the Certified Project owner has failed to correct any noticed program non-compliance within the time allowed by the City in its notice, the City may issue the notice of decertification identified above and direct the County Assessor to disqualify all or a portion of the project from property tax exemption under the program. The City also may issue a notice of decertification and direct the County Assessor to disqualify all or a portion of a project from property tax exemption under the program with respect to program non-compliance for which it determines not to provide prior notice and an opportunity for non-compliance correction.

6. The effective date of a decertification is the date provided in the notice of decertification identified above in Section 3.16.120.5. The effective date of a decertification may be retroactive from the date of the actual notice of decertification only to the commencement of the non-compliance for which the decertification is issued as determined by the City. In determining whether or not to make the decertification retroactive, the City may consider factors including, but not limited to those identified above in Section 3.16.120.4, the intentional nature of the non-compliance, and when the owner or its agents became aware or reasonably should have become aware of the non-compliance.

3.16.130 PARTIAL PROPERTY TAX EXEMPTIONS FOR CERTIFIED PROJECTS

1. In order to receive a partial property tax exemption under this chapter, the Certified Project owner, the project applicant or other person responsible for the payment of property taxes on the Certified Project must notify the County Assessor that the project has been approved by the City as a Certified Project and qualifies for a partial property tax exemption.

2. The notification described above in Section 3.16.130.1 must be delivered to the County Assessor in writing on or before April 1 preceding the first tax year for which the partial property tax exemption is sought.

3. Except as modified by subsections 4 and 5 of this section, the exemption applies to the construction or rehabilitation of real property improvements associated with the Certified Project or the inclusion of affordable housing on the Certified Project, in each of the tax years for which the exemption is available, including but not limited to land development.

4. The property exemption rate equals 20 percent (0.2) multiplied by the number of fully equalized floors (among all associated buildings exempt in that year), up to but not exceeding four such equalized floors, that are:

    a. For residential use; and

    b. Constructed or rehabilitated as part of the vertical housing development project. For purposes of calculating the partial property exemption, the equalized floor quotient is rounded down to whole numbers reflecting only fully equalized floors up to a maximum of four such equalized floors.

5. The partial property tax exemption on a Certified Project is available for ten consecutive tax years beginning with the first tax year in which, as of the assessment date, the project is occupied or ready for occupancy following its approval by the City as a Certified Project.

6. If during the period of partial tax exemption, any part of a project dedicated for residential use is converted to or used as non-residential area, the County Assessor and the City shall be notified by the project owner of such change. Similarly, the County Assessor and the City shall be notified in writing by the project owner if any part of a project dedicated to low-income residential housing is converted to other purposes or otherwise used in a manner that does not comply with low-income residential housing requirements.

7. In order to receive partial property tax exemption with respect to a Certified Project, the Certified Project owner shall apply to the County Assessor. Upon written application for partial exemption to the County Assessor, the Certified Project owner will provide the County Assessor:

    a. A letter specifically requesting the partial tax exemption in accordance with the Certified Project approval certification;

    b. A copy of the final project application for certification,

    c. A copy of the Certified Project approval certificate issued by the City,

    d. A copy of the certificate(s) of occupancy for the entire Certified Project; and

    e. Such fee(s), if any, as the County Assessor may require.

8. The certificate of occupancy or temporary certificate of occupancy must be dated prior to January 1 of the assessment year for which the exemption is requested.

9. The written application for exemption must be made to the County Assessor on or before April 1 of the assessment year for which the exemption is sought and the exemption will be effective for the first year for which the partial property tax exemption is available and for the next nine consecutive tax years.

10. If all or a portion of a Certified Project is decertified by the City, that portion of the Certified Project shall be disqualified from partial property tax exemption as set forth in the notice of decertification.

CHAPTER 3.20

MARIJUANA RETAILER TAX

SECTIONS

3.20.010 DEFINITIONS

1. MARIJUANA ITEM: Has the meaning given that term in Oregon Laws 2015, chapter 614, section 1.
2. MARIJUANA RETAILER: Means a person who sells marijuana items to a consumer in this state.
3. RETAIL SALES PRICE: Means the price paid for a marijuana item, excluding tax, to a marijuana retailer by or on behalf of a consumer of the marijuana item.

3.12.020 TAX IMPOSED

As described in ORS 475B.345, the City of Stayton hereby imposes a tax of three percent (3%) on the retail sale price of marijuana items by a marijuana retailer in the area subject to the jurisdiction of the City.

3.12.030 COLLECTION

The tax shall be collected at the point of sale of a marijuana item by a marijuana retailer at the time at which the retail sale occurs and remitted by each marijuana retailer that engages in the retail sale of marijuana items.

3.12.040 INTEREST AND PENALTY

1. Interest shall be added to the overall tax amount due at the same rate established under ORS 305.220 for each month, or fraction of a month, from the time the return to the Oregon Department of Revenue was originally required to be filed by the marijuana retailer to the time of payment.

2. If a marijuana retailer fails to file a return with the Oregon Department of Revenue or pay the tax as required, a penalty shall be imposed upon the marijuana retailer in the same manner and amount provided under ORS 314.400.

3. Every penalty imposed, and any interest that accrues, becomes a part of the financial obligation required to be paid by the marijuana retailer and remitted to the Oregon Department of Revenue.

4. Taxes, interest and penalties will be transferred to the City of Stayton by the Oregon Department of Revenue.

5. If at any time a marijuana retailer fails to remit any amount owed in taxes, interest or penalties, the Oregon Department of Revenue is authorized to enforce collection on behalf of the City of the owed amount in accordance with ORS 475B.700 to 475B.755, any agreement between the Oregon Department of Revenue and the City of Stayton under ORS 305.620 and any applicable administrative rules adopted by the Oregon Department of Revenue.

3.12.050 REFERRAL

This three percent (3%) tax was referred to and approved by the electors of the City of Stayton at the November 8, 2016 statewide general election.

Chapter 3.30
TRANSPORTATION MAINTENANCE PROGRAM

SECTIONS

3.30.010 DEFINITIONS.

As used in this chapter, unless the context requires otherwise:

1. **DEVELOPED PROPERTY:** A parcel or portion of real property on which an improvement exists or has been constructed. Improvement on developed property includes, but is not limited to buildings, parking lots, landscaping and outside storage.
2. **DWELLING UNIT**: Any building, or any portion thereof, that contains 1 or more habitable rooms which are occupied or intended to be occupied by 1 family with facilities for living, sleeping, sanitation, cooking, and eating.
3. **FINANCE DIRECTOR:** The City of Stayton Finance Director or the Director's designee.
4. **GROSS SQUARE FOOTAGE AREA(GFA):** The sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a structure such as porches and decks. The GFA shall be measured in thousands (1,000) of square feet.
5. **NON-RESIDENTIAL PROPERTY:** Any property that is not residential property.
6. **PUBLIC WORKS DIRECTOR:** The City of Stayton Public Works Director or the Director's designee.
7. **RESIDENTIAL PROPERTY:** A property that is primarily for personal, domestic accommodation, including single-family, manufactured and mobile homes, and all types of multi-unit residential property, assisted living or

congregate care facilities consisting of 2 or more dwelling units per building, but not including lodging facilities.

8. **RESPONSIBLE PARTY:** The person or persons who by occupancy or contractual arrangement are responsible to pay for utility services provided to an occupied unit. The person(s) paying the utility bill for an occupied unit shall be deemed the responsible party as to that occupied unit. For any developed property not otherwise required to pay a utility bill, "responsible party" shall mean the person or persons listed as the owner, or agent, on the Marion County Tax Assessment Records, unless another responsible party has agreed in writing to pay and a copy of the writing is filed with the City.

9. **SINGLE FAMILY RESIDENTIAL:** Residential property that has one dwelling unit.

10. **STREET:** A public street or right-of-way within the City that is under the jurisdiction or control of the City. For purposes of this chapter, county, state, and federal roads are excluded.

11. **TRANSPORTATION MAINTENANCE PROGRAM:** A program established by this chapter to maintain, repair and reconstruct City streets. Activities include the administration and collection of the street maintenance fee; preventive maintenance, repair, rehabilitation and reconstruction projects; design and inspection of such projects; street condition monitoring and assessment, including inspection of street repairs; and staff training and consultant services in support of the above activities.

12. **TRIP GENERATION:** The average number of vehicle trips, as determined by reference to the manual entitled, Trip Generation, published by the Institute of Transportation Engineers (ITE) ("ITE Manual"), 8th edition.

13. **USE CATEGORY OR CATEGORY OF USE:** The code number and resulting trip generation estimate determined with reference to the ITE Manual, and applicable to a particular developed property.

14. **UTILITY CUSTOMER:** The person(s) listed on the City of Stayton utility billing records for a developed property as the person(s) responsible for payment of the utility bill. (Ord. 932, December 20, 2011)

3.30.020 ADMINISTRATIVE OFFICERS.

1. Except as provided below, the Public Works Director and Finance Director shall be responsible for the administration of this chapter.

2. The Public Works Director shall develop and update a 5-year street maintenance program project schedule. This schedule shall be properly integrated into the City's capital improvement program, to ensure that it is coordinated with other City capital projects and projects of other agencies. (Ord. 1070, December 16, 2024)

3. The Public Works Director shall provide an annual report on the transportation maintenance program to the City Council and Budget Committee.

4. The Finance Director shall be responsible for the administration and collection of fees under this chapter. (Ord. 932, December 20, 2011)

3.30.030 DEDICATION OF REVENUES.

All funds and all proceeds from funds collected pursuant to this chapter shall be used for the transportation maintenance program. (Ord. 932, December 20, 2011)

3.30.040 ANNUAL TRANSPORTATION MAINTENANCE PROGRAM REPORT.

1. The Public Works Director shall prepare and present to the Budget Committee and City Council the "Annual Transportation System Maintenance Program Report" as part of the City's the annual budget proceedings. This document is a public record. (Ord. 1070, December 16, 2024)
2. The report shall include a narrative description of the overall condition of the street network, the findings of any new condition assessments, a detailed project schedule for the upcoming year, an updated 5-year project schedule, the project selection criteria employed, and a report on the previous year projects, workload impacts, and overall program progress. The report shall include revenues received relative to revenue projections, project cost inflation trends, and any other new developments that impact the adequacy of the program funds to meet program goals. (Ord. 932, December 20, 2011)

3.30.050 TRANSPORTATION MAINTENANCE FEE.

1. A transportation maintenance fee is imposed and levied upon the responsible party for all developed property within the City. The fee shall be based on the direct and indirect use of or benefit derived from the use of public streets generated by the developed property, to be calculated as described in Section 3.30.060.
2. The transportation maintenance fee is also imposed and levied on the property owner of the developed property in the event of non-payment by the responsible party. (Ord. 932, December 20, 2011)

3.30.060 DETERMINATION OF TRANSPORTATION MAINTENANCE FEE.

1. The City Council shall adopt by resolution the schedule of Transportation Maintenance Fees for residential and non-residential uses.
    a. Residential fees.
        i. Single-family residences (SFR) shall have a trip rate of 9.57 trips per unit and pay the minimum monthly residential rate set forth by separate resolution. *[Example: $2.00 per month per dwelling unit.]*
        ii. Multi-family residences shall have a trip rate of 5.37 trips per unit and pay a proportionate share of the minimum monthly SFR residential rate per dwelling unit. [5.37/9.57 = 56.11% of the minimum monthly

rate per dwelling unit]. *[Example $1.12 per month per dwelling unit based on a $2.00 minimum SFR rate.]*

iii. Mobile home parks shall have a trip rate of 4.99 trips per dwelling unit and pay a proportionate share of the minimum monthly SFR residential rate per dwelling unit. [4.99/9.57 = 52.15% of the minimum monthly rate per dwelling unit]. *[Example: $1.04 per month per dwelling unit based on a $2.00 minimum SFR rate.]*

iv. Assisted living and congregate care facilities shall have a trip rate of 2.4 trips per bed or per living unit and pay a proportionate share of the minimum monthly SFR residential rate per living unit. [2.40/9.57 = 25.1% of the minimum monthly rate per dwelling unit]. *[Example: $0.50 per month per living unit based on a $2.00 per month SFR rate.]*

b. Non-residential fees.

i. Category Assignment. Each non-residential developed property in the City shall be assigned to a category of use according to the land use type listed in Attachment A to this Ordinance and which may be modified from time to time by resolution of the City Council.

ii. Request Review of Assignment. Upon request of the customer, the Finance Director shall review the category of use assignment. The Finance Director shall consider evidence provided by the customer that relates to the actual trip generation patterns of the property in question. The determination of category of use shall not be considered a land use decision as that term is defined in O.R.S. 197.015.

iii. Fee Calculation. The transportation maintenance fee shall be calculated by multiplying the number of units by the trip rate per unit for that assigned category of use and then by the monthly per trip charge or by the flat rate per category of use as stated in a City Council Resolution to establish the monthly fee to be billed.

iv. Fee Minimum. The minimum monthly Transportation maintenance fee for non-residential accounts shall be the Single Family Residential rate listed in §3.30.060 1.a.i.

v. Category of Use**.**

a) Category 1 shall be a trip rate of 5 trips per 1,000 square feet of building space.

b) Category 2 shall be a trip rate of 15 trips per 1,000 square feet of building space.

c) Category 3 shall be a trip rate of 30 trips per 1,000 square feet of building space.

d) Category 4 shall be a trip rate of 50 trips per 1,000 square feet of building space.

e) Category 5 shall be a trip rate of 80 trips per 1,000 square feet of building space.

f) Category 6 shall be a trip rate of 140 trips per 1,000 square feet of building space.

g) Category 7 shall be a trip rate of 800 trips per 1,000 square feet of building space.

h) Category 8 shall be a trip rate of 4 trips per acre of land used for the state purpose (excluding the vacant portion of a specific parcel).

i) Category 9 shall be a trip rate of 160 trips per fueling station.

j) Category 10 shall be a trip rate of 10 trips per rental room.

k) Category 11 shall be a trip rate of 1.5 trips per student

vi. Unlisted uses. In the event that a property is occupied by a use that is not expressly listed in Attachment A, the Finance Director shall determine which category the property should be placed in, based on similarity in expected trip generation. If no category is appropriate, the Finance Director shall determine the trips per unit shall be based on a Transportation study, the Trip Generation Manual, or any other method of determining trips. Any determination by the Finance Director under this section may be reviewed under the procedure described in § 3.30.090.2. The result of the review may be appealed to the City Council by filing a notice of appeal within 10 days of the date notice of the result of the review is mailed to the property owner. (Ord. 932, December 20, 2010)

3.30.070 ADMINISTRATION OF TRANSPORTATION MAINTENANCE FEE.

1. The transportation maintenance fee shall be billed and collected with and as part of the monthly utility bill for those lots or parcels utilizing City water and/or sewer. For new construction the collection of the transportation maintenance fee will begin at the time the City issues a certificate of occupancy or begins collection of the sanitary sewer user charge, whichever comes first. In the event of non-payment, the City may bill the property owner or take other action as authorized by law to collect from the responsible party.

2. In the event funds received from City utility billings are inadequate to satisfy in full all of the sanitary sewer charges, water charges, and Transportation maintenance fees, credit shall be given first to the sanitary sewer charges, second to the water service charges and third to the transportation maintenance fee.

3. Notwithstanding any provision herein to the contrary, the City may institute any necessary legal proceedings to enforce the provisions of this chapter, including, but not limited to injunctive relief and collection of charges owing.

The City's enforcement rights shall be cumulative. (Ord. 932, December 20, 2010)

3.30.080 WAIVER OF TRANSPORTATION MAINTENANCE FEE IN CASE OF VACANCY.

1. When any property within the City becomes vacant and utility services are discontinued (if applicable), a waiver of the transportation maintenance fee may be granted by the Finance Director upon written application of the person responsible, including a signed statement, affirming under penalty of perjury that the property is vacant, and upon payment of all outstanding sanitary sewer and street maintenance charges.

2. For purposes of this section, "vacant" shall mean that an entire building or utility billing unit has become vacant or continuously unoccupied for at least 30 days. “Vacant” shall not mean that only a portion of a property without a separate water meter has become vacant or unoccupied.

3. Fees shall be waived in accordance with this section only while the property remains vacant. The person responsible shall notify the City within 5 days of the premises being occupied, partially occupied or used, regardless of whether utility service is restored. (Ord. 932, December 20, 2010)

3.30.090 TRANSPORTATION MAINTENANCE FEE APPEAL PROCEDURE.

1. Any utility customer who disputes any interpretation given by the City as to the category of use assigned to such owner's property pursuant to this chapter may request a review and appeal such interpretation, but only in accordance with this section. The dispute must first be presented to the Finance Director for review/settlement; and, if not settled, thereafter may be appealed to the City Administrator in accordance with this section. Failure to appeal an interpretation made under this chapter within the time and in the manner provided shall be sufficient cause to deny the relief requested. Except in cases of hardship as determined by the Council, disputes which result in changes in the transportation maintenance fee charged under this chapter shall become effective with the next billing cycle.

2. A utility customer may request a review of the category of use assigned. The Finance Director shall conduct the review, considering all relevant evidence presented by the customer related to their actual trip generation patterns. Such evidence may include business records, parking lot usage, or traffic studies. The Finance Director shall make a determination based on the evidence provided and provide notice to the customer.

3. A customer who wishes to dispute an interpretation made by the Finance Director as to the assigned category of use under this chapter shall submit a written appeal to the City Administrator within 10 days from the date of notice of the Finance Director's determination, together with a filing fee in an amount set by separate resolution. The application for appeal shall specify the reasons therefore and include an engineering study prepared by a licensed

professional engineer in conformance with the methodology outlined in the ITE Manual. Appeals shall be limited to the issue of whether the appropriate category of use has been assigned to the property. The City Administrator shall review the matter and notify the appellant of his decision, in writing, within fifteen (15) calendar days.

4. A customer who wishes to appeal the City Administrator's decision as to the assigned category of use under this chapter shall submit a written appeal to the City within 10 days from the date of written notice of decision. The City Administrator shall schedule the matter for City Council review within 30 days of receipt of the written appeal and notify the appellant not less than 10 days prior to the date of such Council review. The Council shall conduct a hearing during a public meeting and determine whether there is substantial evidence in the record to support the interpretation given by the Finance Director. The Council may continue the hearing for purposes of gathering additional information bearing on the issue. The Council shall make a tentative oral decision and shall adopt a final written decision together with appropriate findings in support. The decision of the Council with respect to the category of use shall be limited to whether the appellant has been assigned to the appropriate category of use. If the Council should determine that a different category of use should be assigned, it shall so order, provided no refund of prior transportation maintenance fees shall be given. Only where the Council decision results in a change in category of use will the filing fee on the appeal be refunded. The Council decision shall be final. (Ord. 932, December 20, 2010)

3.30.100 EXCEPTIONS TO TRANSPORTATION MAINTENANCE FEE.

The following shall not be subject to the transportation maintenance fee:

1. City-owned public parking lots.
2. Publicly owned parkland, open spaces, and greenways, unless public off-street parking designed to accommodate the use of such areas is provided.
3. Areas encompassed by railroad and public rights-of-way, except for developed railroad property such as maintenance areas, non-rolling storage areas and areas used for the transfer of rail-transported goods to non-rail transport, which areas shall be subject to transportation maintenance fees. (Ord. 932, December 20, 2010)

3.30.110 SEVERABILITY.

In the event any section, subsection, paragraph, sentence or phrase of this chapter is determined by a court of competent jurisdiction to be invalid or unenforceable, the validity of the remainder of the chapter shall continue to be effective. If a court of competent jurisdiction determines that this chapter imposes a tax or charge, which is therefore unlawful as to certain but not all affected properties, then as to those certain properties, an exception or exceptions from the imposition of the transportation

maintenance fee shall be created and the remainder of the ordinance and the fees imposed thereunder shall continue to apply to the remaining properties without interruption. Nothing contained herein shall be construed as limiting the City's authority to levy special assessments in connection with public improvements pursuant to applicable law. (Ord. 932, December 20, 2010)

3.30.120 REVIEW AND SUNSET PROVISION.

The City Council will review the effectiveness of the Transportation Maintenance Program every five years. The provisions of Chapter 3.30 are hereby repealed effective June 30, 2018 unless extended by the City Council. (Ord. 954, March 18, 2013)

CHAPTER 3.40

MOTOR VEHICLE FUEL TAX

SECTIONS

3.40.010 DEFINITIONS

As used in this chapter, unless the context requires otherwise:

1. City means City of Stayton and any person, agency or other entity authorized by the city to act as its agent related to administration of this chapter or collection of the motor vehicle fuel tax.

2. Dealer means any person who:

    a. Supplies or imports motor vehicle fuel for sale, use or distribution in, and after the same reaches the city, but "dealer" does not include any person who imports into the city motor vehicle fuel in quantities of 500 gallons or less purchased from a

supplier who is permitted as a dealer hereunder and who assumes liability for the payment of the applicable motor vehicle fuel tax to the city; or

b. Produces, refines, manufactures or compounds motor vehicle fuels in the city for use, distribution or sale in the city; or

c. Acquires in the city for sale, use or distribution in the city motor vehicle fuels with respect to which there has been no motor vehicle fuel tax previously incurred.

3. Motor Vehicle Fuel-Handler means any person who acquires or handles motor vehicle fuel within the city through a storage tank facility with storage tank capacity that exceeds 500 gallons of motor vehicle fuel.

4. Distributor means, in addition to its ordinary meaning, the deliverer of motor vehicle fuel by a dealer to any service station or into any tank, storage facility or series of tanks or storage facilities connected by pipelines, from which motor vehicle fuel is withdrawn directly for sale or for delivery into the fuel tanks or motor vehicles whether or not the service station, tank or storage facility is owned, operated or controlled by the dealer.

5. Motor Vehicle means all vehicles, engines or machines, moveable or immovable, operated or propelled by the use of motor vehicle fuel.

6. Motor Vehicle Fuel includes gasoline, and any other flammable or combustible gas or liquid, by whatever name that gasoline, gas or liquid is known or sold, usable as fuel for the operation of motor vehicles. Propane fuel and motor vehicle fuel used exclusively as a structural heating source are excluded as a taxable motor vehicle fuel.

7. Person includes every natural person, association, firm, partnership, or corporation.

8. Service Station means and includes any place operated for the purpose of retailing and delivering motor vehicle fuel into the fuel tanks of motor vehicles.

3.40.020 TAX IMPOSED

A motor vehicle fuel tax is hereby imposed on every dealer operating within the corporate limits of the city. The city motor vehicle fuel tax imposed shall be paid monthly to the city.

1. A person who is not a permitted dealer or permitted motor vehicle fuel-handler shall not accept or receive motor vehicle fuel in this city from a person who supplies or imports motor vehicle fuel who does not hold a valid motor vehicle fuel dealers permit in this city. If a person is not a permitted dealer or permitted motor vehicle fuel-handler in this city and accepts or receives motor vehicle fuel, the purchaser or receiver shall be responsible for all taxes, interests and penalties prescribed herein.

2. A permitted dealer or fuel-handler who accepts or receives motor vehicle fuel from a person who does not hold a valid dealer or fuel-handler permit in this city, shall pay the

tax imposed by this chapter to the city, upon the sale, use or distribution of the motor vehicle fuel.

3.40.030 AMOUNT AND PAYMENT

1. Subject to divisions B. and C. of this section, by law, every dealer engaging in their own name, or in the name of others, or in the name of their representatives or agents in the city, in the sale, use or distribution of motor vehicle fuel, shall:

    a. Not later than the twenty-fifth day of each calendar month, render a statement to the city or to its authorized agent, of all motor vehicle fuel sold, used or distributed by him in the city as well as all such fuel sold, used or distributed in the city by a purchaser thereof upon which sale, use or distribution the dealer has assumed liability for the applicable motor vehicle fuel tax during the preceding calendar month.

    b. Pay a motor vehicle fuel tax computed on the basis of 3.0 cents per gallon of such motor vehicle fuel so sold, used or distributed as shown by such statement in the manner and within the time provided in this chapter.

2. In lieu of claiming refund of the tax as provided in 3.40.190, or of any prior erroneous payment of motor vehicle fuel tax made to the city by the dealer, the dealer may show such motor vehicle fuel as a credit or deduction on the monthly statement and payment of tax.

3. The motor vehicle fuel tax shall not be imposed wherever it is prohibited by the Constitution or laws of the United States or of the State of Oregon.

3.40.040 PERMIT REQUIREMENTS

No dealer or fuel handler, shall sell, use or distribute any motor vehicle fuel until he has secured a dealer or fuel-handler permit as required herein.

3.40.050 PERMIT APPLICATIONS AND ISSUANCE

1. Every person, before becoming a dealer or fuel handler in motor vehicle fuel in this city shall make an application to the city or its duly authorized agent, for a permit authorizing such person to engage in business as a dealer or fuel-handler.

2. Applications for the permit must be made on forms prescribed, prepared and furnished by the city or its duly authorized agent.

3. The applications shall be accompanied by a duly acknowledged certificate containing:

    a. The business name under which the dealer or fuel-handler is transacting business.
    b. The place of business and location of distributing stations in the city and in areas adjacent to the city limits in the state.

c. The name and address of the managing agent, the names and addresses of the several persons constituting the firm or partnership and, if a corporation, the corporate name under which it is authorized to transact business and the names and addresses of its principal officers and registered agent, as well as primary transport carrier.

4. The application for a motor vehicle fuel dealer or fuel-handler permit having been accepted for filing, the city, shall issue to the dealer or fuel-handler a permit in such form as the city or its duly authorized agent may prescribe to transact business in the city. The permit so issued is not assignable, and is valid only for the dealer or fuel handler in whose name issued.

5. The City Recorder's office shall keep on file a copy of all applications and/or permits.

6. No fee(s) shall be charged by the city for securing said permit as described herein.

3.40.060 FAILURE TO SECURE PERMIT

1. If any dealer sells, distributes or uses any motor vehicle fuel without first filing the certificate and securing the permit required by 3.40.050, the motor vehicle fuel tax shall immediately be due and payable on account of all motor vehicle fuel so sold, distributed or used.

2. The city shall proceed forthwith to determine, from the best available sources, the amount of such tax, and it shall assess the tax in the amount found due, together with a penalty of 200% of the tax, and shall make its certificate of such assessment and penalty, determined by City Administrator or the city's duly authorized agent. In any suit or proceeding to collect such tax or penalty or both, the certificate is prima facie evidence that the dealer therein named is indebted to the city in the amount of the tax and penalty therein stated.

3. Any fuel-handler who sells, handles, stores, distributes, or uses any motor vehicle fuel without first filing the certificate and securing the permit required by 3.40.050, shall be assessed a penalty of $250 unless modified by 3.40.260(a), determined by the City Administrator or the city's duly authorized agent. In any suit or proceeding to collect such penalty, the certificate is prima facie evidence that the fuel-handler therein named is indebted to the city in the amount of the penalty therein stated.

4. Any tax or penalty so assessed may be collected in the manner prescribed in 3.40.100 with reference to delinquency in payment of the tax or by court action.

3.40.070 REVOCATION OF PERMIT

The city shall revoke the permit of any dealer or fuel-handler refusing or neglecting to comply with any provision of this chapter. The city shall mail by certified mail addressed to such dealer or fuel-handler at their last known address appearing on the files, a notice of intention to cancel. The notice shall give the reason for the cancellation. The cancellation shall become effective

without further notice if within 10 days from the mailing of the notice the dealer or fuel-handler has not made good its default or delinquency.

3.40.080 CANCELLATION OF PERMIT

1. The City may, upon written request of a dealer or fuel-handler cancel any permit issued to such dealer or fuel-handler, the cancellation to become effective 30 days from the date of receipt of the written request.

2. If the city ascertains and finds that the person to whom a permit has been issued is no longer engaged in the business of a dealer or fuel-handler, the city may cancel the permit of such dealer or fuel-handler upon investigation after 30 days' notice has been mailed to the last known address of the dealer or fuel-handler.

3.40.090 REMEDIES CUMULATIVE

Except as otherwise provided in 3.40.100 and 3.40.120, the remedies provided in 3.40.060, 3.40.070, and 3.40.080 are cumulative. No action taken pursuant to those sections shall relieve any person from the penalty provisions of this chapter.

3.40.100 PAYMENT OF TAX AND DELINQUENCY

1. The motor vehicle fuel tax imposed by 3.40.020 and 3.40.030 shall be paid on or before the twenty-fifth day of each month to the city which, upon request, shall receipt the dealer or fuel-handler therefor.

2. Except as provided in division 4, to any motor vehicle fuel tax not paid as required by division 1, there shall be added a penalty of 1% of such motor vehicle fuel tax.

3. Except as provided in division 4 of this section, if the tax and penalty required by division 2 of this section are not received on or before the close of business on the last day of the month in which the payment is due, a further penalty of 10% shall be paid in addition to the penalty provided for in division 2.

4. If the city, determines that the delinquency was due to reasonable cause and without any intent to avoid payment, the penalties provided by divisions 2 and 3 may be waived by the City Administrator. Penalties imposed by this section shall not apply when the penalty provided in 3.40.060 has been assessed and paid.

5. If any person fails to pay the motor vehicle fuel tax or any penalty provided for by this chapter, the amount thereof shall be collected from such person for the use of the city. The city shall commence and prosecute to final determination in any court of competent jurisdiction an action to collect the same.

6. In the event any suit or action is instituted to collect the motor vehicle fuel tax or any penalty provided for by this chapter, the city shall be entitled to recover from the person

sued reasonable attorney's fees at trial or upon appeal of such suit or action, in addition to all other sums provided by law.

7. No dealer who collects from any person the tax provided for herein, shall knowingly and willfully fail to report and pay the same to the city, as required herein.

3.40.110 MONTHLY STATEMENT OF DEALER AND FUEL-HANDLER

Unless modified by 3.40.260.2, every dealer and fuel-handler in motor vehicle fuel shall render to the city, on or before the twenty-fifth day of each month, on forms prescribed, prepared and furnished by the city, a signed statement of the number of gallons of motor vehicle fuel sold, distributed, used or stored by him during the preceding calendar month. The statement shall be signed by the permit holder. All statements as required in this section are public records.

3.40.120 FAILURE TO FILE MONTHLY STATEMENT

If any dealer or fuel-handler fails to file the report required by 3.40.110, the city, shall proceed forthwith to determine from the best available sources the amount of motor vehicle fuel sold, distributed, used or stored by such dealer or fuel-handler for the period unreported, and such determination shall be prima facie evidence of the amount of such fuel sold, distributed, used or stored. The city, immediately shall assess the motor vehicle fuel tax in the amount so determined, as pertaining to the reportable dealer, adding thereto a penalty of 10% for failure to report. Fuel-handlers failing to file a monthly statement of motor vehicle fuel shall be assessed a penalty of $50. The penalty shall be cumulative to other penalties provided in this chapter.

3.40.130 BILLING PURCHASERS

Bills shall be rendered to all purchasers of motor vehicle fuel by dealers in motor vehicle fuel. The bills shall separately state and describe to the satisfaction of the city the different products shipped thereunder and shall be serially numbered except where other sales invoice controls acceptable to the city are maintained. The bills required hereunder may be the same as those required under O.R.S. 319.210.

3.40.140 FAILURE TO PROVIDE INVOICE OR DELIVERY TAG

No person shall receive and accept any shipment of motor vehicle fuel from any dealer, or pay for the same, or sell or offer the shipment for sale, unless the shipment is accompanied by an invoice or delivery tag showing the date upon which shipment was delivered and the name of the dealer in motor vehicle fuel.

3.40.150 TRANSPORTING MOTOR VEHICLE FUEL IN BULK

Every person operating any conveyance for the purpose of hauling, transporting or delivering motor vehicle fuel in bulk shall, before entering upon the public streets of the city with such conveyance, have and possess during the entire time of their hauling or transporting such motor vehicle fuel an invoice, bill of sale or other written statement showing the number of gallons, the

true name and address of the seller or consignor, and the true name and address of the buyer or consignee, if any, of the same. The person hauling such motor vehicle fuel shall at the request of any officer authorized by the city to inquire into or investigate such matters, produce and offer for inspection the invoice, bill of sale or other statement.

3.40.160 EXEMPTION OF EXPORT FUEL

1. The license tax imposed by 3.40.020 and 3.40.030 shall not be imposed on motor vehicle fuel:

    a. Exported from the city by a dealer; or

    b. Sold by a dealer in individual quantities of 500 gallons or less for export by the purchaser to an area or areas outside the city in containers other than the fuel tank of a motor vehicle, but every dealer shall be required to report such exports and sales to the city in such detail as may be required.

2. In support of any exemption from motor vehicle fuel taxes claimed under this section other than in the case of stock transfers or deliveries in their own equipment, every dealer must execute and file with the city an export certificate in such form as shall be prescribed, prepared and furnished by the city, containing a statement, made by some person having actual knowledge of the fact of such exportation, that the motor vehicle fuel has been exported from the city, and giving such details with reference to such shipment as may be required. The city may demand of any dealer such additional data as is deemed necessary in support of any such certificate, and failure to supply such data will constitute a waiver of all right to exemption claimed by virtue of such certificate. The city may, in a case where it believes no useful purpose would be served by filing of an export certificate, waive the certificate.

3. Any motor vehicle fuel carried from the city in the fuel tank of a motor vehicle shall not be considered as exported from the city.

4. No person shall, through false statement, trick or device, or otherwise, obtain motor vehicle fuel for export as to which the city motor vehicle fuel tax has not been paid and fail to export the same, or any portion thereof, or cause the motor vehicle fuel or any portion thereof not to be exported, or divert or cause to be diverted the motor vehicle fuel or any portion thereof to be used, distributed or sold in the city and fail to notify the city and the dealer from whom the motor vehicle fuel was originally purchased of their act.

5. No dealer or other person shall conspire with any person to withhold from export, or divert from export or to return motor vehicle fuel to the city for sale or use so as to avoid any of the fees imposed herein.

6. In support of any exemption from taxes on account of sales of motor vehicle fuel in individual quantities of 500 gallons or less for export by the purchaser, the dealer shall retain in their files for at least three years an export certificate executed by the purchaser in such form and containing such information as is prescribed by the city. This certificate

shall be prima facie evidence of the exportation of the motor vehicle fuel to which it applies only if accepted by the dealer in good faith.

3.40.170 SALES TO ARMED FORCES EXEMPTED

The motor vehicle fuel tax imposed by 3.40.020 and 3.40.030 shall not be imposed on any motor vehicle fuel sold to the Armed Forces of the United States for use in ships, aircraft or for export from the city; but every dealer shall be required to report such sales to the city, in such detail as may be required. A certificate by an authorized officer of such Armed Forces shall be accepted by the dealer as sufficient proof that the sale is for the purpose specified in the certificate.

3.40.180 FUEL IN VEHICLES COMING INTO CITY NOT TAXED

Any person coming into the city in a motor vehicle may transport in the fuel tank of such vehicle motor vehicle fuel for their own use only and for the purpose of operating such motor vehicle without securing a license or paying the tax provided in 3.40.020 and 3.40.030, or complying with any of the provisions imposed upon dealers herein, but if the motor vehicle fuel so brought into the city is removed from the fuel tank of the vehicle or used for any purpose other than the propulsion of the vehicle, the person so importing the fuel into the city shall be subject to all provisions herein applying to dealers.

3.40.190 REFUNDS

Refunds will be made pursuant to O.R.S. 319.280 to 319.320.

3.40.200 EXAMINATION AND INVESTIGATIONS

The city, or its duly authorized agent, may make any examination of accounts, records, stocks, facilities and equipment of dealers, fuel-handlers, service stations and other persons engaged in storing, selling or distributing motor vehicle fuel or other petroleum products within this city, and such other investigations as it considers necessary in carrying out the provisions of this chapter. If the examinations or investigations disclose that any reports of dealers or other persons theretofore filed with the city pursuant to the requirements herein, have shown incorrectly the amount of gallons of motor vehicle fuel distributed or the tax accruing thereon, the city may make such changes in subsequent reports and payments of such dealers or other persons, or may make such refunds, as may be necessary to correct the errors by its examinations or investigations.

3.40.210 LIMITATION ON CREDIT FOR REFUND OR OVERPAYMENT AND ON ASSESSMENT OF ADDITIONAL TAX

1. Except as otherwise provided in this chapter, any credit for erroneous overpayment of tax made by a dealer taken on a subsequent return or any claim for refund of tax erroneously overpaid filed by a dealer must be so taken or filed within 3 years after the date on which the overpayment was made to the city or to its authorized agent.

2. Except in the case of a fraudulent report or neglect to make a report, every notice of additional tax proposed to be assessed under this chapter shall be served on dealers within three years from the date upon which such additional taxes become due.

3.40.220 EXAMINING BOOKS AND ACCOUNTS OF CARRIER OF MOTOR VEHICLE FUEL

The city or its duly authorized agent may at any time during normal business hours examine the books and accounts of any carrier of motor vehicle fuel operating within the city for the purpose of checking shipments or use of motor vehicle fuel, detecting diversions thereof or evasion of taxes in enforcing the provisions of this chapter.

3.40.230 RECORDS TO BE KEPT BY DEALERS AND FUEL HANDLERS

Every dealer and fuel-handler in motor vehicle fuel shall keep a record in such form as may be prescribed by the city of all purchases, receipts, sales and distribution of motor vehicle fuel. The records shall include copies of all invoices or bills of all such sales and purchases, and shall at all times during the business hours of the day be subject to inspection by the city or its authorized officers or agents.

3.40.240 RECORDS TO BE KEPT 3 YEARS

Every dealer and fuel-handler shall maintain and keep, for a period of 3 years, all records of motor vehicle fuel used, sold and distributed within the city by such dealer or fuel-handler, together with stock records, invoices, bills of lading and other pertinent papers as may be required by the city. In the event such records are not kept within the state, the dealer shall reimburse the city or its duly authorized agents for all travel, lodging, and related expenses incurred in examining such records. The amount of such expenses shall be an additional tax imposed hereunder.

3.40.250 USE OF TAX REVENUES

1. The City Administrator shall be responsible for the disposition of the revenue from the tax imposed by this chapter in the manner provided by this section.

2. For the purposes of this section, net revenue shall mean the revenue from the tax imposed by this chapter remaining after providing for the cost of administrating the motor vehicle fuel tax to motor vehicle fuel dealers and any refunds and credits authorized herein. The program administration costs of revenue collection and accounting activities shall not exceed 10.5% for the first year, and 10% thereafter, of annual tax revenues.

3. The net revenue shall be used only for the activities related to the construction, reconstruction, improvement, repair, and maintenance of public highways, roads and streets within the city.

4. The net revenue shall be used for the street maintenance program established under Chapter 3.30.

3.40.260 ADMINISTRATION

The City Administrator or their designate is responsible for administering this chapter. In addition, the City Administrator may enter into an agreement with the Motor Vehicle Division of the Department of Transportation as an authorized agent for the implementation of certain sections of this chapter. If the Motor Vehicles Division is chosen as an authorized agent of the city, then the modifications outlined below shall apply:

1. The fuel handler's penalty of 3.40.060.3 shall be reduced to $100. And if the Division determines that the failure to obtain the permit was due to reasonable cause and without any intent to avoid obtaining a permit, then the penalty provided in 3.40.060 and this section may be waived.

2. The fuel handler's monthly reporting requirements of 3.40.110 and 3.40.120 shall be waived.

3.40.270 SEVERABILITY

If any portion of this chapter is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this chapter.

TITLE 4.

FRANCHISES

CHAPTERS

CHAPTER 4.04

CABLE FRANCHISE

SECTIONS

4.04.010 AUTHORITY

The Stayton City Council may grant an exclusive or one or more non-exclusive franchise(s) to install, construct, operate, maintain, reconstruct, and expand a cable communication system within the public streets, ways, alleys, public utility easements, and places of the City of Stayton.

4.04.020 FRANCHISEE

The Stayton City Council shall select the prospective cable franchisee(s) based upon a criterion determined in its sole discretion and under terms and conditions it deems in the best interest of the public.

4.04.030 FRANCHISE AGREEMENT

The Stayton City Council shall approve, by resolution, the agreement with the cable franchisee(s) under terms and conditions it deems fit and appropriate and in the best interest of the public.

4.04.040 ACCESS CHANNELS

As a part of its agreement with the cable franchisee(s), Stayton City Council may require that access channels or public, education, or government access channels be established in conjunction with the cable service.

4.04.050 ACCESS COMMISSION

In the event access channels are included as part of the cable franchise terms, the Stayton City Council shall establish and appoint an Access Commission to promulgate operational guidelines and to monitor community access issues. The extent of the Access Commission's authority and responsibilities shall be determined by the Stayton City Council, federal and state law, and terms of the franchise agreement. The number of appointees to the Access Commission and their respective terms shall be, from time to time, determined by the Stayton City Council by resolution.

Scrivener's Note: Resolution 827 approved September 2008, established the following:

1. The Stayton Cable Access Commission shall consist of five (5) members, appointed by the Mayor and subject to ratification by the Stayton City Council.

2. At least four positions of the Access Commission shall be residents of the City of Stayton. One of the five positions may be an individual who resides outside the Stayton city limits, but within the territory served by the cable television provider serving the City of Stayton.

3. Access Commission members shall serve three (3) year terms, initially with two positions expiring in each of two consecutive years and one position expiring in the subsequent (third) year. The appointment year shall be July 1 through June 30.

4. On or about October 01, 2008, the appointed Access Commission members shall determine by lot respective subsequent terms of one, two or three years thereafter, to achieve the rotation prescribed by Section 3 above. (Resolution 827, September 2008)

TITLE 4. FRANCHISES

CHAPTER 4.08

SOLID WASTE MANAGEMENT

SECTIONS

4.08.010 GENERAL PROVISIONS

1. Short Title. This Chapter shall be known as "Solid Waste Management" and cited herein as "Chapter."

2. Purposes, Policy and Scope. In the interest of the public health, safety and welfare and in order to conserve energy and natural resources, it is the policy of the City of Stayton (hereinafter "City") to establish a comprehensive program for and to regulate solid waste management by way of an exclusive franchise. The exclusive franchise shall be granted for the purposes of establishing and maintaining:

   a. safe, efficient, economical and comprehensive solid waste service.

   b. fair and equitable consumer rates and to prohibit rate preferences or other practices that might be discriminatory.

   c. energy and material resources conservation, reduction of solid wastes and promotion of material and energy recovery in all forms.

   d. the education, promotion, planning, development and operation of programs to reduce, reuse, and recycle.

   e. the elimination or prevention of overlapping service thus increasing efficiency and decreasing truck noise, street wear, energy waste, air pollution and public inconvenience.

   f. public health and environment.

   g. adequate public service standards.

h. procedures for proper handling of solid, yard debris, hazardous, and infectious wastes.

i. a basis and incentive for investment in solid waste equipment, facilities, sites and technology.

3. Ownership of Solid Waste. Solid waste, including but not limited to, source separated solid waste placed out for collection as recyclable material, or yard debris, is the property of the Franchisee or a person exempted by action of the Council under the provisions of this Chapter.

4. Definitions

a. **CITY is the City of Stayton, Oregon:**

i. A legal entity.
ii. A geographical area, including any area hereafter annexed to the City.

b. **CITY COUNCIL OR COUNCIL:** The City Council of the City of Stayton.

c. **COMPACT OR COMPACTION:** The process by which material is shredded, manually compressed or mechanically compressed.

d. **DEPARTMENT OF ENVIRONMENTAL QUALITY (DEQ):** The State of Oregon governmental agency known by that name or an agency established to accomplish the same purposes or function.

e. **FRANCHISEE:** A person granted a franchise by resolution as authorized by Section 4.08.020(1) and that person's employees, agents, designees and assigns.

f. **FRANCHISE AGREEMENT:** The agreement entered into between the City and the Franchisee in accordance with this Chapter.

g. **GENERATOR:** The person who produces the solid waste and recyclable material and places it for collection and disposal or processing. The term does not include a person who manages an intermediate function that results in alteration or compaction of the material after it has been produced by the generator and placed for collection and disposal or processing.

h. **HAZARDOUS WASTE:** Any waste defined as hazardous waste by or pursuant to local, state or federal laws, and as amended; or defined as hazardous waste by another governmental unit having jurisdiction; or found to be hazardous to service workers, to service equipment, or to the public by the Franchisee.

i. **INFECTIOUS WASTE:** Includes

i. "Biological waste," which includes blood and blood products, excretions, exudates, secretions, suctionings and other body fluids that cannot be directly discarded into a municipal sewer system, and waste materials saturated with blood or body fluids, but does not include diapers soiled with urine or feces.

ii. "Cultures and stocks," which includes etiologic agents and associated biologicals, including specimen cultures and dishes and devices used to transfer, inoculate and mix cultures, wastes from production of biologicals, and serums and discarded live and attenuated vaccines. "Cultures" does not include throat and urine cultures.

iii. "Pathological waste," which includes biopsy materials and all human tissues, anatomical parts that emanate from surgery, obstetrical procedures, autopsy and laboratory procedures and animal carcasses exposed to pathogens in research and the bedding and other waste from such animals. "Pathological waste" does not include teeth or formaldehyde or other preservative agents.

iv. "Sharps," which include needles, IV tubing with needles attached, scalpel blades, lancets, glass tubes that could be broken during handling and syringes that have been removed from their original sterile containers.

j. **PERSON:** Any individual, partnership, association, cooperative, corporation, company, limited liability company, trust, firm, estate, joint venture or other private legal entity or any public agency or entity.

k. **RECEPTACLE:** A cart, bin, container or drop box into which solid waste, recyclable materials or yard debris may be placed for collection.

l. **RESOURCE RECOVERY:** The process of obtaining useful material or energy resources from solid waste, including reuse, recycling and other materials recovery or energy recovery of or from solid waste.

m. **ROUTE:** Any freeway, highway, road, roadway, street, avenue, drive, alley, cul-

de-sac, thoroughfare, boulevard, parkway, or way of whatever sort, whether public or private.

n. **SERVICE:** The collection, transportation, transfer or disposal of or resource recovery of or from solid waste, recyclable material or yard debris, including solid waste management.

o. **SERVICE AREA:** The geographical area in which a Franchisee is authorized to provide service.

p. **SOLID WASTE:** All useless or discarded putrescible and nonputrescible wastes, including but not limited to garbage, rubbish, refuse, ashes, paper and cardboard, sewage sludge, septic tank and cesspool pumpings or other sludge; source separated materials (including recyclable material); yard debris; useless or discarded commercial, industrial, demolition and construction wastes; discarded or abandoned vehicles or parts thereof; discarded home and industrial appliances; manure, vegetable or animal solid and semisolid wastes, dead animals, infectious waste as defined by local, state and federal law, and other wastes; but the term does not include:

i. Hazardous wastes as defined by local, state and federal law.

ii. Materials used for fertilizer or for other productive purposes or which are salvageable as such materials are used on land in agricultural operations and the growing or harvesting of crops and the raising of animals.

q. **SOLID WASTE MANAGEMENT:** The prevention of or reduction of solid waste, management of the storage, collection, transportation, treatment, utilization, processing and disposal of solid waste, recycling, reuse and material or energy recovered from solid waste and the use and maintenance of facilities and equipment necessary or convenient to such activities.

r. **SOURCE SEPARATED MATERIALS (including recyclable material):** Any solid waste from which use can be extracted including but not limited to paper, cardboard, metal, rubber, glass, or plastic, and as may be defined by Council Resolution.

s. **YARD DEBRIS:** Grass clippings, leaves, trees, and shrubs, pruning, and similar vegetative material. (Ord. 895, section 1, January 22, 2007)

4.08.020 FRANCHISE AND EXEMPTIONS

1. Authority to Grant Exclusive Franchise. The Council may grant to a person or persons the exclusive right, privilege and franchise to provide service to the City subject to and in compliance with this Chapter and all applicable local, state and federal laws.

   a. Resolution. A franchise authorized by this Chapter shall be granted upon resolution of the Council. The resolution shall include the following:

   b. Franchise Agreement. Based upon the resolution (provided for in Section 4.08.020(1)(a)), the City and the Franchisee shall enter into a written franchise agreement which shall declare the obligations of the parties, including but not limited to compliance with this Chapter, and allowance of attorneys' fees and costs to the prevailing party, in the event of a dispute. The rates for services, as amended from time to time, shall be determined as provided by Section 4.08.030 of this Chapter and included as a part of the Franchise Agreement.

   c. Considerations. In granting a franchise, the Council may consider the following, to include but not be limited to: the applicant's demonstrated knowledge of the service, ability to furnish all required and necessary equipment and personnel; financial responsibility; capacity to indemnify the City, persons or property against its failure to fulfill the terms of the franchise or against injuries occurring to the City, persons or property in its performance of such franchise; and, prior experience, if applicable, in maintaining adequate service to the City.

2. Applications for Franchises. Applications for franchises shall be on forms the Council may prescribe. In addition to information required on the forms, the Council may require the filing of any additional information it deems necessary to insure compliance with this Chapter.

3. Requirements for Collection Franchises.

   a. Any person applying for an original franchise (or a Franchisee transferring a Franchise Agreement) may, upon meeting the requirements listed below, be granted a franchise. The applicant must show, to the satisfaction of the Council, that the applicant:

      i. Has a majority of the service accounts in the service area for which the applicant has applied, which the City Administrator may require be evidenced by a list of customers served.

      ii. Has available collection vehicles, equipment, facilities, and personnel sufficient to meet the standards of equipment and service established by or

pursuant to this Chapter. If the applicant proposes to serve a service area or portion thereof which is under franchise to another person or to replace that person upon expiration of the existing franchise, the applicant shall have available on the beginning date of the proposed franchise term collection vehicles, containers, and other equipment equal to that presently used in service.

iii. Has letters of recommendation as may be required by the Council.

iv. Has sufficient experience to insure compliance with this Chapter. If the applicant does not have sufficient experience, the Council may require the applicant to submit a corporate surety bond, in the amount of not less than $25,000 nor more than $100,000, guaranteeing full and faithful performance by the applicant of the duties and obligations of a Franchisee under the provisions of this Chapter, the Franchise Agreement, and applicable federal, state, and local laws and rules or regulations.

v. Has in force, or provides a letter of intent for coverage upon the franchise grant, combined public liability and property damage insurance in the amount of not less than $1,000,000 which shall be evidenced by a certificate of insurance or the letter of intent. Upon award of or transfer of a franchise, any applicant providing only a letter of intent with the application shall provide a copy of a certificate of insurance prior to the effective date of the franchise or transfer.

vi. When requesting a transfer of franchise, the applicant must submit, as part of the application, a letter from the current Franchisee requesting the transfer.

b. If the applicant is not already serving the area proposed to be served, the applicant shall show that:

i. The defined service area has not been franchised to another person, or

ii. The defined service area is not being currently served by the Franchisee therefore pursuant to any schedule established as part of the franchise in accordance with this Chapter, or

iii. The defined service area is not being adequately served by the Franchisee and there is a substantial demand from customers within the area for a change of service.

4. Issuance of Franchise

a. Applications shall be reviewed by the City Administrator, who shall make all investigations deemed appropriate. The City Administrator shall give written notice of any application to any Franchisee who holds a franchise that includes any part of the area for which the application is made.

b. On the basis of the application, evidence submitted, and results of the investigation, the City Administrator shall make a finding on the qualifications of the applicant and shall determine whether additional areas should be included or additional service or equipment should be provided. On the basis of the findings, the City Administrator shall recommend to the Council whether the application should be granted, denied, or modified.

c. The Council shall issue an order by resolution granting, denying, or amending the application. Upon receipt of the order granting a franchise, the applicant shall enter into a Franchise Agreement with the City.

d. The Franchise Agreement may be amended upon the agreement of the parties.

5. Franchise Term. The period of the franchise shall be for a five-year term commencing on the effective date of the Franchise Agreement.

a. Renewals. On the first day of each calendar year after the effective date of the Franchise Agreement, the franchise shall be renewed for a full five-year term unless prior to the expiration of the annual renewal of the franchise term, the Council notifies the Franchisee in writing of its intent to terminate the franchise renewals. Such renewals shall be conditioned upon the Franchisee's continued compliance with the terms of Section 4.08.020(8).

b. Termination. The termination of franchise renewal may be with or without cause.

i. Expiration. Upon Council's notice of termination of renewal, the Franchisee shall continue the service to its termination, five years after the date of the notice of termination. The Council may later extend the term or reinstate the continuing renewal upon mutual agreement.

ii. Termination for Cause. The Council may suspend, modify or revoke the franchise for cause pursuant to Section 4.08.020(10). The City's exercise of its rights under this Section shall not restrict the City from pursuing any other remedy available under local, state or federal law.

6. Subcontracting and Transfers of Interest

a. Subcontracting. A Franchisee shall not subcontract with others to provide service under this Chapter or the Franchise Agreement, in whole or in part, unless:

i. Written approval as to the subcontractor and the subcontract agreement is granted by the Council prior to the effective date of any subcontract agreement, provided, however, where emergency circumstances require the services of a subcontractor prior to receipt of Council's written approval, such written approval shall be sought not later than thirty (30) days from the effective date of the subcontract agreement, otherwise such subcontract shall be of no force or effect; and,

ii. The agreement between the Franchisee and the subcontractor is in writing and such agreement binds the subcontractor to the provisions of this Chapter and the terms of the Franchise Agreement between the City and the Franchisee; and,

iii. The Franchisee agrees to forever defend, indemnify and hold the City, its Councilors, employees and agents harmless from any claim, loss or liability, including attorneys' fees, costs and disbursements arising out of, in any way connected with, or resulting from the subcontractor's service, this Chapter, the subcontract agreement, and any other matter relating thereto. In the event of any action, judicial or otherwise, arising from allegations, claims, controversy, or litigation brought against the City and arising out of or in any way connected with any of the above events or claims, against which Franchisee agrees to defend the City, Franchisee shall, upon notice from the City, vigorously resist and defend such actions or proceedings, including any appeal thereon and post-judgment collection action, through legal counsel reasonably satisfactory to the City at Franchisee's sole expense. If the City expends funds or services relating to the controversy, the Franchisee agrees to reimburse the City for such expenditures, including attorney's fees and costs.

iv. Notwithstanding Council approval of a subcontract, the Franchisee shall not be relieved of the responsibility for providing and maintaining service as required by this Chapter and the Franchise Agreement and shall remain obligated for compliance with this Chapter and performance of the Franchise Agreement.

b. Permitted Subcontracts. Notwithstanding the provisions of Section 4.08.020(6)(a) of this Chapter, a Franchisee may subcontract with others to provide service under this Chapter or the Franchise Agreement, in whole or in part, without prior approval of the Council in the following circumstances:

i. The subcontract is on a one-time, short-term basis lasting not more than a total of six (6) consecutive or non-consecutive months; or,

ii. The subcontract is with an affiliate of the Franchisee. As used in this subsection: an "affiliate" is a person who directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the Franchisee; and "control", including the terms "controlled by" and "controlled with", means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, including Franchisee, through direct, indirect, or common ownership.

iii. In each of the foregoing circumstances, Section 4.08.020(a)(ii) and 4.08.020(a)(iii) will apply, and the Franchisee shall notify the City Administrator in writing (together with a copy of the subcontract) within ten (10) days after making any such subcontract.

c. Transfers.

i. Financial: Assignments, Mortgages and Leases. The Franchisee shall not transfer, assign, mortgage, lease or pledge the franchise or any portion thereof to other persons without prior written approval of the Council, which consent the Council may refuse to grant. A pledge of the franchise as financial security shall be considered as a transfer for purposes of this subsection. If written approval is granted, the Council may attach whatever conditions it deems necessary to assure continuation of service and compliance with this Chapter and the Franchise Agreement.

ii. Ownership, Control or Interest. Prior Council approval is required for any transaction which transfers a substantial or controlling interest in the Franchisee's business or the assets held thereunder; approval shall not be unreasonably withheld.

7. Franchise Fee. The Franchisee shall pay a fee, declared by Council resolution, based upon its gross receipts from the franchised service as provided in the Franchise Agreement. This fee shall be in lieu of any other business license fee or other fees charged by the City but not in lieu of any ad valorem taxation.

8. Franchisee Responsibility and Authority

a. A Franchisee shall:

i. Dispose of solid waste at a DEQ approved disposal site or resource recovery for such wastes, subject to and in compliance with this Chapter and all applicable local, state and federal laws.

ii. Conduct its activities under this Chapter, whether in or outside the City, in compliance with the provisions of this Chapter, the terms of the Franchise Agreement and all applicable local, state and federal laws.

iii. Contract with a solid waste disposal site for the disposal of wastes collected.

iv. Collect and recycle residential recyclable material, including yard debris, as follows:

(a) The Franchisee shall provide collection for recyclable materials, a list of which the City Council shall determine, from time to time, by resolution. Placement of the recycling receptacles by residential customers for collection by the Franchisee shall be voluntary.

(b) The Franchisee shall provide collection of recyclable materials at a frequency to be determined from time to time by the City Council, by resolution. The recyclable materials shall be disposed of in a manner which promotes resource recovery.

(c) Customers shall receive information on how to separate each recyclable material to be collected. A Franchisee may refuse to collect materials not properly separated. If materials are refused, the Franchisee shall leave notice with the customer why the material was not collected.

(d) Unless the Franchisee and customer agree otherwise, recycling receptacles, provided by the Franchisee, shall be placed for collection near the solid waste receptacles.

(e) Publicity. The Franchisee shall cooperate with the City in an ongoing publicity campaign promoting recycling and the recycling

program.

(f) Review. Compliance review of the Franchisee for the collection of recyclable materials, under the terms of this Chapter shall be conducted as provided by Section 4.08.020(10). If the Council determines that the collection of recyclable materials is not functioning to the benefit of the public, or has become unpractical, the Council may discontinue collection.

v. Provide and keep in force public liability insurance issued by an insurer authorized to conduct business in Oregon in the amounts declared by Council resolution and as provided in the Franchise Agreement, as reasonably appropriate for that which is required of the Franchisee's indemnity obligations under the terms of this Chapter. Proof of such insurance shall be evidenced by a certificate of insurance filed with the City Administrator. The policy of such insurance shall:

(a) name the City of Stayton as additional insured and

(b) provide that such policy not be canceled, terminated, amended or permitted to expire without not less than ten (10) days' prior written notice to the City. The City shall have the option to purchase insurance and charge the Franchisee for the cost thereof.

vi. Within 30 days or a time otherwise fixed by the Council's resolution granting a franchise authorized by this Chapter, execute and file with the City Administrator the Franchise Agreement.

vii. Provide sufficient collection vehicles, containers, facilities, personnel, finances and resources to provide all types of necessary service, or subcontract with others to provide such service, in accordance with this Chapter; provided, however, where a customer generates or creates a large volume of waste and the providing of service to such customer shall require the Franchisee to substantially invest in new equipment not otherwise necessary to service the franchised service area, the Franchisee may require a contract with such customer. The terms of such contract shall include the duration and rates for providing such service. The rates charged shall be reflective of current rates charged and shall be calculated to allow the Franchisee to defray the cost of investment in the new equipment while not imposing undue expense or burden on the customer. A contract entered into pursuant to this section is subject to Council

approval and, in any event, shall not extend the franchise term. The Franchisee enters into a contract under this Section at the Franchisee's own risk.

viii. Respond to any complaint on service and provide copies of the complaints and responses to the City Administrator.

ix. Make its services available to the City, its persons and property without discrimination as to cost, frequency of service, or type of service, except the Franchisee shall have the right to make reasonable rules and regulations relating to the service performed by the Franchisee, subject to both the prior approval of the Council and the provisions of this Chapter. Specified City of Stayton government properties shall be provided service at no cost. A list of the specific government properties to be serviced shall be determined by Council resolution. If directed by the City Administrator, the Franchisee will provide annually, service for two "Clean-Up Days" for yard debris at the Franchisee's cost.

x. Franchisee shall forever defend, indemnify and hold the City, its Councilors, employees and agents harmless, upon prompt tender of the complete defense thereof, from any claim, loss or liability, including attorneys' fees, costs and disbursements arising out of, in any way connected with, or resulting from the Franchisee's operation of the service business, or from the Franchisee's responsibilities and obligations set forth in this Chapter, or in the Franchise Agreement, and any other matter relating thereto. In the event of any action, judicial or otherwise, arising from allegations, claims, controversy, or litigation brought against the City and arising out of or in any way connected with any of the above events or claims, against which Franchisee agrees to defend the City, Franchisee shall, upon notice from the City and prompt tender of the complete defense thereof, settle or if necessary, vigorously defend such actions or proceedings, including any appeal thereon and post-judgment collection action, through legal counsel reasonably satisfactory to the City at Franchisee's sole expense. Any settlement shall be subject to City approval. If the City expends funds or services, the Franchisee agrees to defray the costs or services the City incurs or employs relating to the controversy and reimburse the City thereof.

xi. Maintain collection vehicles in a reasonably clean and sanitary condition and in a good and safe operating condition. If any collection vehicle becomes unsuitable for the purpose for which it is intended by reason of its becoming unsafe, dilapidated, unsightly, unsanitary or obsolete, the

Council may direct the Franchisee to remove the vehicle from service until the objections are corrected or to replace it within a reasonable time.

xii. Conduct its service at all times in compliance with and subject to this Chapter and all applicable local, state and federal laws.

xiii. Provide the opportunity to recycle in compliance with and subject to this Chapter and all applicable local, state and federal laws.

b. A Franchisee is not required to store, collect, transport, transfer, dispose of or resource recover any hazardous wastes unless otherwise provided for in this Chapter, by agreement, or by applicable local, state or federal law.

c. A Franchisee may utilize whatever routes necessary to accomplish the purposes, policy and scope of this Chapter.

d. A Franchisee may engage in those activities necessary and incidental to fulfilling its responsibilities and the purposes, policy and scope of this Chapter.

e. A Franchisee shall not give any rate preference to any person, locality or type of solid waste stored, collected, transported, disposed of or resource recovered. This paragraph shall not prohibit uniform classes of rates based upon length of haul, type or quality of solid waste handled and location of customers so long as such rates are reasonably based upon cost of the particular service and are approved of in advance by the Council; provided, however, the Franchisee may volunteer services at a reduced cost for a charitable, community, civic or benevolent purpose.

9. Oversight. The City Administrator shall oversee the Franchisee's compliance with this Chapter and the Franchise Agreement. With prior notice, the City Administrator, Council, or its designee may review and inspect the Franchisee's books and records without restriction and its facilities, equipment, and other resources utilized in providing the franchise service.

10. Compliance Review

a. The City Administrator may review the Franchisee's compliance with this Chapter and the Franchise Agreement annually or more frequently at the discretion of the City Administrator or Council. If the City Administrator reviews the Franchisee's compliance, a report shall be provided to the Council and the Franchisee. The Franchisee shall have the same rights as provided in Section 4.08.020(11).

b. In the event of an identified lack of compliance, the Franchisee shall have 90 days from the date of the report, or a time otherwise specified by the City Administrator or the Council, to comply with the Chapter and the Franchise Agreement.

c. At the expiration of the 90-day period, or other time specified by the Council, the City Administrator shall advise the Council as to whether the Franchisee has come into compliance with the Chapter and the Franchise Agreement.

d. If the Franchisee fails to correct its noncompliance within the 90-day period, the City may proceed under the provisions of Section 4.08.020(10) of this Chapter for the suspension, modification, or revocation of the franchise. Council's failure to proceed under Section 4.08.020(11) shall not constitute a waiver of any of the City's rights or remedies.

e. The Council, in its sole discretion, may or may not conduct a compliance review at the end of the fourth year of the franchise term.

f. Nothing in this section is intended to limit or act as a prerequisite to the application of any other provisions of this Chapter.

11. Dispute Resolution

a. Any dispute or controversy between the City and the Franchisee arising under this Chapter or the Franchise Agreement shall first be heard and resolved by the City Administrator.

b. If the City or the Franchisee are dissatisfied with the determination of the City Administrator, either party may seek alternative dispute resolution (negotiation, mediation, or arbitration). If unresolved, then binding arbitration shall be the sole and exclusive forum to determine the rights of the parties involved.

12. Suspension, Modification or Revocation of Franchise. The provisions in this section are in addition to and not in lieu of any other remedy of the City.

a. Failure to provide necessary service or otherwise comply with any provision of this Chapter after written notice and a reasonable opportunity to comply shall be grounds for suspension, modification, or revocation of the franchise.

b. After written notice from the City Administrator that such grounds exist, the Franchisee shall have 20 days from the date of mailing of the notice in which to comply or request a public hearing before the Council.

c. If a public hearing is requested, the Franchisee and other interested persons shall have an opportunity to present oral, written or documentary evidence of compliance to the Council.

d. If the Franchisee fails to comply within the time specified or upon an order of the Council based upon its findings at the public hearing, the Council may suspend, modify or revoke the franchise or make such action contingent upon continued noncompliance.

e. In the event the Council finds an immediate and serious danger to the public through creation of a health hazard or serious public nuisance, it may take corrective action within a time specified in the notice to the Franchisee and without a public hearing prior to taking such action.

f. The waiver by the City of one or more defaults or breaches in the Franchisee's observance of the terms and conditions of this Chapter and the Franchise Agreement shall not constitute a waiver of such default or breach of any subsequent default or breach thereafter.

13. Preventing Interruption of Service. In the event that an interruption of the Franchisee's service creates a health hazard or public nuisance, the City Administrator or Council, after actual notice to the Franchisee, may authorize another person to provide interim or corrective service. The City or its designee may utilize any of the Franchisee's, or City's, real property, facilities, or equipment to provide the interim or corrective service. The City shall return any property used by the City or its designee for the interim or corrective service.

14. Termination of Service. The Franchisee may terminate service to all or a portion of its customers if:

a. Access is blocked and there is no alternate route. In such case, the City shall not be liable to the Franchisee or Franchisee's customers for such blocking of access, or

b. Excessive weather conditions render providing service unduly hazardous to persons providing service or such termination is caused by accidents or casualties caused by an act of God, public enemy or vandalism, or

c. A customer has not complied with section 4.08.040 of this Chapter or has not paid for service provided after a regular billing and after a 15-day written notice to pay, or

d. Ninety days' written notice of intent to terminate is given to the Council and written approval is obtained from the Council, or,

e. Ordered by a legislative, administrative or judicial body having jurisdiction.

15. Practices Prohibited Without a Franchise. Unless exempted by Section 4.08.020(15) or 4.08.020(16) or franchised pursuant to Section 4.08.020 of this Chapter, no person shall solicit customers for service, or advertise the providing of service, or provide service in the City.

16. Persons and Practices Exempt from Franchise. Nothing in this Chapter requires a franchise agreement under this Chapter from the following persons for the following businesses or practices:

a. The collection, transportation and reuse of repairable or cleanable discards by a private charitable organization regularly engaged in such business or activity including, but not limited to, Salvation Army, St. Vincent de Paul, Goodwill and similar nonprofit organizations.

b. The collection, transportation and reuse or recycling of totally source separated materials or operation of a collection center for totally source separated materials, on an irregular basis, by a religious, educational, charitable, benevolent or fraternal nonprofit organization, which organization was not organized nor is operated for any solid-waste management purpose and which nonprofit organization is using the activity for fund raising.

c. The collection, transportation or redemption of returnable beverage containers pursuant to Oregon law, including provisions commonly known as the "Bottle Bill." (See ORS 459A.700-459A.740) (Ord. 874, section 21, 2004)

d. The generator or producer who transports and disposes of waste created as an incidental part of regularly carrying on the business or service of auto wrecking, to the extent licensed by the State of Oregon; demolition, land clearing or construction; janitorial service, gardening, park maintenance or landscaping service; street sweeping; auto body recovery; or septic tank pumping or sludge collection. "Generation" or "production" shall not include acts constituting cleanup or collection of accumulated or stored wastes generated or produced by other persons.

e. The transportation by a person of solid waste generated or produced by such person to a disposal site, resource recovery site, or market provided such person complies with Section 4.08.040(1) of this Chapter and all applicable local, state, and federal laws. Solid waste generated or produced by a tenant, lessee,

occupant, licensee, invitee, or similarly situated person is deemed produced by such person for purposes of this Chapter and not by the landlord, lessor, manager, or property owner with whom such relationship exists.

f. The providing of service for hazardous wastes; provided, however, that the Franchisee may engage in management of hazardous wastes subject to and in compliance with all applicable local, state and federal laws.

g. Any other practice, business or activity exempted by resolution of the Council pursuant to Section 4.08.020(16) of this Chapter.

h. The sale or exchange by the generator for fair market value of source separated recyclable material to any person for recycling or reuse. Fair market value, as used in this paragraph h, means at a minimum, the generator or service customer shall pay nothing for collection, transportation or disposal service for the recyclable material. This paragraph h shall not apply if the generator makes any payment to the person providing collection, transportation or disposal service for the recyclable material.

17. Exemptions by Resolution. The City Council may, in its sole discretion, authorize by resolution exemptions to provisions of this Chapter.

a. Criteria. In making its decision, the Council shall consider:

i. Whether the exception carries out the purposes and policy stated in Section 4.08.010(2) of this Chapter;

ii. Whether there is a need for the proposed service;

iii. Whether the applicant can show there are enough customers for the proposed service to make it a practicable business at a reasonable profit, considering rates in effect at the time;

iv. Whether the existing Franchisee is able to provide the proposed service so as to make the exemption unnecessary;

v. Whether unnecessary or unreasonable hardships or practical difficulties exist which cannot be solved by the existing Franchisee without unreasonable expenditure of funds and can only be relieved by the granting of an exemption;

vi. Whether exceptional or extraordinary circumstances or conditions, not created by the Franchisee, which cannot be remedied without the

unreasonable expenditure of funds or resources, and which may involve solid waste disposal facilities, including land, sanitary landfill, buildings, transfer stations, or similar facilities;

vii. Whether the granting of the exemption will not be materially detrimental or have a substantial impact on service, consumer rates, or the Franchisee in the particular service area where the exemption is proposed;

viii. Whether the applicant has the necessary equipment, experience, finances, personnel and resources to provide adequate service; or,

ix. Any other factors.

b. The Application for Exemption

i. The application for exemption shall be filed with the City at least twenty (20) days prior to the regular Council meeting at which the exemption will be considered. The applicant shall pay a fee for the exemption.

ii. The applicant shall provide notice as follows:

(a) The applicant shall post copies of the application for exemption in three (3) public places within the City, not less than five (5) days prior to the Council meeting at which the exemption will be considered.

(b) The applicant shall provide notice of the exemption application to the affected franchise operator. Such notice shall be accomplished by First Class, Registered or Certified Mail.

(c) The applicant shall cause to be published notice of the exemption application twice consecutively in a newspaper of general circulation in the City, with each publication being a minimum of two (2) days apart. The applicant shall bear the cost(s) of such published notice.

c. Hearing. The Council shall consider the exemption after public hearing, at which testimony from the applicant, the Franchisee, or any interested person may be heard. The Council shall grant or deny the application for exemption based upon the application, provisions of this Chapter, testimony and evidence, applicable local, state, and federal laws, and any other factors. The applicant shall have the burden of proving the need for exemption by

substantial evidence. (Ord. 895, section 2, January 22, 2007)

4.08.030 RATE REGULATION

1. Rate Determination

a. Rates for service shall be set by resolution of the Council, after public hearing. The rate schedule shall be included as a part of the Franchise Agreement.

b. The Council shall, as considered necessary from time to time, change rates by resolution. In determining the appropriate rate to be charged by the Franchisee, the Council shall give consideration to the following:

i. The cost of performing the service provided by the Franchisee, including public education and promotion;

ii. The anticipated increase in the cost of providing the service, including any increase in the cost of disposal;

iii. The need for equipment replacement and the need for additional equipment to meet service needs; compliance with federal, state, local law, ordinances and regulations; or technological change;

iv. The investment of the Franchisee and the value of the business and the necessity that the Franchisee have reasonable operating margin for providing service under the Franchise Agreement;

v. The rates charged in other cities of similar size within the area for similar service;

vi. The public interest in assuring reasonable rates to enable the Franchisee to provide efficient and beneficial service to the users of the service;

vii. The local wage scales, cost of management facilities and disposal fees or charges;

viii. Any profit or cost savings resulting from recycling, and any additional current or projected costs resulting from recycling, reuse, and resource recovery services;

ix. Location of can, cart, or container in relation to a public road; haul distance; and concentration of dwelling units; and,

x. Such other factors as the Council deems relevant.

c. On all but emergency or interim rates, the Franchisee shall provide 30 days' written notice of the proposed rate change together with accompanying justification. An emergency or interim rate for a new or altered service may be adopted by written order of the City Administrator and is valid for a stated period not to exceed six months.

d. Rates charged shall be reflected in the Council's resolution. If the Council imposes increases in the cost or requirements on the Franchisee, including but not limited to an increased franchise fee or increased insurance coverage, upon consent of the Council, the Franchisee may raise its rates, but on a pro rata basis to customers for the amount of those increases only, and without a net revenue increase to the Franchisee. Nonscheduled service may be provided at the reasonable cost of providing the service, giving due consideration to the standards addressed in this Chapter.

e. Franchisee may require payment for residential service and multifamily residential service up to two months in advance. Franchisee may bill up to two months in advance, arrears or any combination thereof. Where billed in advance the Franchisee will refund a prorata portion of the payment for any complete month in which service is not to be provided.

f. The following systems may be used by the Franchisee to reduce bad debts which would otherwise become a charge against legitimate paying customers:

i. The Franchisee may require payment at the time service is provided to drop box or roll-off box customers or for any other customer that has not previously established credit with the Franchisee. In determining credit, the Franchisee may take into consideration nonpayment for, service by other service providers in other areas and any other relevant information.

ii. Subject to the amount or rate being approved in the rate schedule, the Franchisee may charge:

(a) A starting charge for a new service;

(b) A restart charge or advance deposit or both for any customer who has previously been terminated for failure to pay for service; and

(c) Interest on past due accounts, not to exceed legal maximums.

iii. In addition to the other provisions of this section and not in lieu thereof, the Franchisee may collect the entire cost of billing and collecting bad debts including, but not limited to, the cost of professional debt collection.

2. Business Practices. Except as modified by this Chapter the Franchisee may use normally accepted business practices.

3. Accounting, Records and Audit. The Franchisee shall keep a complete and accurate set of books which shall reflect the gross receipts from services under the Franchise rendered within the City, which books shall be balanced at least annually. Books and records shall be kept using normally accepted accounting practices as modified to provide the information required for rate determination under Section 4.08.030(1) of this Chapter. The frequency, detail and disposition of records and the costs of such record keeping shall be reviewed by and with the City Administrator who shall make a final determination, subject to any direction by the Council. The City Administrator or a qualified designee shall have the right to inspect and audit the books and records of the Franchisee at reasonable times and places.

4.08.040 PUBLIC RESPONSIBILITY

1. Public Responsibility. In addition to and not in lieu of compliance with all applicable local, state and federal laws:

a. No person shall place any hazardous waste out for collection or disposal by the Franchisee nor place it into any solid waste container or drop box supplied by the Franchisee or the City without prior notice to and prior written approval from the Franchisee or the City, respectively. A person placing such wastes for collection shall, prior to notice to the Franchisee or to the City, obtain approval of the waste disposal site to be used for disposal of such wastes. Where required, an additional approval shall be obtained from the local government unit having jurisdiction over the disposal site. This disposal approval shall be in writing, signed by the

person designated by the disposal site or the local government unit affected. Either Franchisee, the City of the disposal site or the local government unit having jurisdiction of the disposal site may require written, authorization from the Oregon Department of Environmental Quality for handling of such hazardous wastes.

b. Pursuant to applicable local, state and federal laws, producers of infectious waste shall comply with the following provisions:

i. Infectious waste shall be segregated from other wastes by separate containment at the point of generation. Enclosures used for storage of infectious waste shall be secured to prevent access by unauthorized persons and shall be marked with prominent warning signs.

ii. Infectious waste, except for sharps, shall be contained in disposable red plastic bags or containers made of other materials impervious to moisture and strong enough to prevent ripping, tearing or bursting under normal conditions of use. The bags or containers shall be closed to prevent leakage or expulsion of solid or liquid wastes during storage, collection, or transportation.

iii. Sharps shall be contained for storage, collection, transportation and disposal in leakproof, rigid, puncture-resistant red containers that are taped closed or tightly lidded to prevent loss of the contents. Sharps may be stored in such containers for more than seven days.

iv. All bags, boxes or other containers for infectious waste and rigid containers of discarded sharps shall be clearly identified as containing infectious waste.

v. Infectious waste shall be stored at temperatures and only for times established by rules of the Health Division of the Oregon Department of Human Resources.

vi. Infectious waste shall not be compacted before treatment and shall not be placed for collection, storage or transportation in a portable or mobile trash compactor.

vii. Infectious waste contained in disposable bags as specified in this section shall be placed for collection, storage, handling or transportation in a disposable or reusable pail, carton, box, drum, dumpster, portable bin or similar container. The container shall have a tight-fitting cover and be

kept clean and in good repair. The container may be of any color and shall be conspicuously labeled with the international biohazard symbol and the words "Biomedical Waste" on the sides so as to be readily visible from any lateral direction when the container is upright.

viii. Each time a reusable container for infectious waste is emptied, the container shall be thoroughly washed and decontaminated unless the surfaces of the container have been protected from contamination by a disposable red liner, bag or other device removed with the waste.

vix. Trash chutes shall not be used to transfer infectious waste between locations where it is contained or stored.

x. Generators that produce 50 pounds or less of infectious waste in any calendar month shall be exempt from the specific requirements of subsections (e), (g), and (i) of this Section.

c. The requirements of Section 4.08.040(1)(b) shall not apply to waste, other than sharps, as defined in Section 4.08.040(1)(b)(ii), that is:

i. Generated in the practice of veterinary medicine; and,

ii. Not capable of being communicated by invasion and multiplication in body tissues and capable of causing disease or adverse health impacts in humans.

d. No unauthorized person shall place material in or remove material from a solid waste collection container without permission of the owner of the container. For the purpose of this section, the Franchisee is the "owner" of containers supplied by Franchisee.

e. Unless as otherwise provided by this Chapter, no person shall do business in the collection, reloading, processing, compacting, sorting or transport of solid waste generated within the City without a current, valid city franchise.

i. No person, other than the person producing or depositing the material contained therein, or an officer, employee, or permitee of the City, or an employee of the franchisee, shall interfere with or remove any solid waste container from its location. No person, other than an officer, employee, or permitee of the City, or an employee of the franchisee shall interfere with or remove any contents from a solid waste container.

ii. No person, other than the person producing or depositing the material contained therein, or an officer, employee, or permitee of the City, or an employee of the franchisee, shall remove the lid from any solid waste container, nor shall any such person collect, molest, or scatter solid waste stored in any solid waste container. No unauthorized person shall deposit solid waste into any solid waste container.

f. All receptacles shall be provided to the customer by the Franchisee, unless otherwise authorized by Franchisee. The loaded weight and volume of receptacles designed for mechanical collection shall comply with the manufacturer's specifications, so as to protect service workers, the customer, the public and the collection equipment. Service rates for the use of Franchisee's receptacles shall be included in the rate schedule approved by the City Council.

g. No person shall install an underground solid waste container for storage and collection. The Franchisee is not required to service an underground container unless the person responsible for it places the can above ground prior to time of collection.

h. All carts designed for mechanical solid waste or recycling collection shall be placed at the curb or roadside by the customer prior to collection time, but shall not be so placed more than 24 hours before or 24 hours after collection. Exceptions for hardship customers may be made by Franchisee.

i. The customer shall provide safe access to the pickup point so as not to jeopardize the person or equipment supplying service or the public.

j. Unless special service or service equipment is provided by the Franchisee for handling unconfined waste, materials such as rubbish and refuse, brush, leaves, tree cuttings and other debris for manual pickup and collection shall be in securely tied bundles or in any box, sack or other receptacles; and, solid waste so bundled, tied or contained shall not exceed 60 pounds in weight.

k. Where a customer requires an unusual volume of service or a special type of service requiring substantial investment in equipment, the Franchisee may require a contract with the customer as necessary to finance and assure amortization of such equipment. The purpose of this provision is to assure that such equipment does not become a charge against other rate payers who are not benefited.

l. Stationary compactors for handling solid waste shall comply with applicable federal and state safety regulations. No such compactor shall be loaded so as to

exceed the safe loading design limit or operation limit of the collection vehicles used by the Franchisee. A person who wishes service for a compactor such person is going to acquire shall acquire a compactor approved by the Franchisee as compatible with the equipment of the Franchisee or the equipment the Franchisee is willing to acquire.

m. Any vehicle used by a person to transport solid waste shall be so loaded and operated as to prevent the waste from dropping, sifting, leaking, blowing or otherwise escaping from the vehicle onto the public right-of-ways or adjacent lands.

n. No person shall block access to any container or drop box or roll-off box supplied by Franchisee. Franchisee may charge extra for return service to such blocked container or drop box or roll-off box.

o. Every person who generates or produces wastes shall remove or have removed all putrescible wastes at least every seven days. More frequent removal may be required where the facility, activity or use involves the public health. All wastes shall be removed at sufficient frequency as to prevent health hazards, nuisances or pollution.

p. All garbage and putrescible materials shall be stored in cans supplied by the generator or producer or in containers supplied by the Franchisee. When cans are used, they shall be covered except during loading and emptying.

q. The producer or generator of waste shall bear the primary responsibility for maintaining waste carts and containers and the area around such carts and containers in a clean, sanitary and odor-free condition. In the event, however, the producer or generator of waste, in the opinion of the City, fails, refuses or neglects to keep such carts and containers clean, the Franchisee shall, at the request of the City Administrator, clean said carts or containers and impose its costs incurred in cleaning such can or container and in picking up, transporting and returning said can or container against the producer or generator of the waste which is accumulated in said carts or containers. The Franchisee shall provide periodic maintenance to containers supplied by Franchisee.

r. No person shall place or cause to be placed any solid waste in any street, alley or other public place, or upon any private property, whether owned by such person or not, within the City, except it being in proper containers for collection, or on the express approval granted by the City. Nor shall any person throw or deposit or cause to be thrown or deposited any solid waste

into any stream or other body of water.

s. No person shall burn garbage or putrescible solid waste within the City.

t. Customers shall take appropriate action to ensure that hazardous materials, chemicals, paint, corrosive materials, infectious waste or hot ashes are not put into a receptacle. When materials or customer abuse, fire or vandalism cause excessive damage to such a receptacle, the cost of repair or replacement may be charged to the customer.

2. Payment for Service. Any person who received service from the Franchisee shall be responsible for payment for service. The owner of a rental or lease facility shall be liable for payment for services provided to a tenant of such dwelling if the tenant fails to make timely payment for such service.

3. Health, Safety, and Welfare of the Community. All decisions about enforcement of this Chapter to protect the health, safety, and welfare of the community shall be made by the Council, which shall be responsible for enforcement of this Chapter for all such matters. In all proceedings for any such enforcement, the Franchisee shall cooperate with the Council and the City. (Ord. 895, section 3, January 22, 2007)

4.08.050 ADMINISTRATION AND ENFORCEMENT

1. Customer Relations. The Franchisee shall respond to any customer complaints as provided in Section 4.08.020(8)(a)(viii) of this Chapter.

a. Any action or determination by Franchisee under or pursuant to this Subsection may be appealed to the City Administrator.

b. Any party not satisfied with the City Administrator's resolution of the dispute or controversy under this Subsection may request a public hearing before the Council; provided, however, that the City Administrator's resolution shall be binding upon the parties until such time as the Council may order otherwise. The Council may grant or deny a hearing request in its sole discretion.

2. City Enforcement. The City may enforce the provisions of this Chapter by administrative, civil or criminal action or any combination as necessary to obtain compliance with this Chapter. The Council shall take such legislative action as is necessary to support the Chapter and the franchise granted.

a. The Franchisee shall enforce payment or protect its rights as to third parties by appropriate civil action. The City shall have no obligation to enforce

payment or protect the Franchisee's rights.

b. If the Franchisee requests the City to enforce any provision this Chapter with respect to any matter not within the scope of Section 4.08.040(3), the City shall do so through appropriate actions or proceedings, so long as the Franchisee agrees to defray all costs and expenses (including attorney fees) of such actions or proceedings, including any appeal thereon, the City incurs and to reimburse the City therefore.

3. Attorneys' Fees. If arbitration is initiated by the City, Franchisee, or a third party relating to any provision of this Chapter, the prevailing party(s) in the arbitration proceeding may be awarded reasonable attorneys' fees as fixed by the presiding authority in the arbitration proceeding.

4. Penalties. Violation by any person of the provisions of Section 4.08.020(14) or Subsections (a), (b), (l), (m), (n), (o), (p), (q), (r), (s), (t), or (u) of Section 4.08.040(1) shall be deemed a misdemeanor and upon conviction, shall be punished by a fine of not more than $500. Each day in violation is a separate offense; provided, however, that two or more such continuing offenses may be joined in the same action.

5. Construction. Any finding by any court of competent jurisdiction that any portion of this Chapter is unconstitutional or invalid shall not invalidate any other provision of this Chapter.

TITLE 4. FRANCHISES

CHAPTER 4.12
PACIFICORP FRANCHISE

SECTIONS

4.12.010 Introduction

This Non-Exclusive Electric Utility Franchise Agreement ("Agreement" or "Franchise") is between the CITY OF STAYTON, a municipal corporation of the state of Oregon ("City"), and PACIFICORP dba Pacific Power, an Oregon business corporation ("Franchisee").

4.12.020 Definitions

Any capitalized term used but not defined in this Agreement shall have the meaning set forth in the Stayton Municipal Code Title 4 Franchises.

1. "**Electric Facilities**" shall mean Franchisee's electrical distribution and transmission lines and related appurtenances, including underground conduits and structures, poles, towers, wires, guy anchors, vaults, transformers, transmission lines, communication lines, distribution and related facilities for electric vehicles, and other physical components located within any Right-of-Way within the City by virtue of the rights granted under this Agreement, or predecessor franchise agreement.
2. "**Gross Revenues**" shall mean any and all revenue of Franchisee derived from the retail sale and use of electric power and energy within the municipal boundaries of the City, including (i) revenues from the sale to and use of electricity and electric service by Franchisee's retail customers within the municipal boundaries of the City, and (ii) revenues from the use, rental, or lease of Electric Facilities to serve Franchisee's retail customers located within the municipal boundaries of the City, in each case, excluding amounts charged and received for separately billed governmental taxes and governmental fees, and after adjustment for the net write-off of uncollectible accounts and bill corrections.
3. "**Right-of-Way**" shall mean the space in, upon, above, along, across, over, or under any public street, road, highway, bridge, alley, sidewalk, trail, path, parking strip, public easement on private property, and all other public ways or areas, to the extent that the City owns or controls said ways or areas, and holds the necessary right, title, interest, and authority to grant a franchise to occupy and use such areas for the purpose herein stated.

4.12.030 Grant of Franchise

Subject to the Stayton Municipal Code, the City hereby grants to Franchisee the right, privilege, and authority to construct, maintain, operate, upgrade, and relocate its Electric Facilities in, under, along, over and across the present and future Right of Ways within the City, for the purpose of supplying and transmitting electric power and energy utility service on the terms and conditions stated herein. This Franchise, and the grant of authority herein, is subject to prior rights, interests,

agreements, regulations, rules, permits, easements or licenses granted by the City, the City code, and to the City's and the public's right to use and administer the Right-of-Way. Likewise, this Franchise does not apply to Electric Facilities that do not rely on the authority granted under this franchise to be located in a particular Right-of-Way, i.e., areas in a Right-of-Way where Franchisee holds requisite real property rights such as a private easement or fee simple title.

4.12.040 Term

The initial term of this Franchise is for ten (10) years ("Initial Term"), commencing on the Effective Date, as defined under Section 25 below. This Agreement shall renew automatically each year thereafter, up to ten (10) years, if neither party provides written notice of non-renewal to the other party at least six (6) months prior to the expiration of the Initial Term.

4.12.050 Acceptance by Franchisee

Within sixty (60) days after the passage of the ordinance adopting this Agreement by the City, Franchisee shall file an unqualified written acceptance thereof, with the City Recorder, otherwise the ordinance and the rights granted herein shall be null and void.

4.12.060 Non-Exclusive Franchise

The right to use and occupy the Rights of Way of the City shall be nonexclusive, and the City reserves the right to grant similar franchise rights to any other person or entity and the right to use the Rights of Way for itself or any other entity that provides service to City residences; provided, however, that such use shall not unreasonably interfere with Franchisee's Electric Facilities or Franchisee's rights granted herein.

4.12.070 City Regulatory Authority

In addition to the provision herein contained, the City reserves the right to adopt such additional ordinances and regulations as may be deemed necessary in the exercise of its police power for the protection of the health, safety and welfare of its citizens and their properties or exercise any other rights, powers, or duties required or authorized, under the Constitution of the State of Oregon, the laws of Oregon or City Ordinances.

4.12.080 Indemnification

The City shall in no way be liable or responsible for any loss or damage to property or any injury to, or death, of any person that may occur in the construction, operation, or maintenance by Franchisee of its Electric Facilities. Franchisee shall

indemnify, defend, and hold the City, its officers, agents, or employees ("City Parties") harmless from and against claims, demands, liens and all liability or damage of whatsoever kind on account of Franchisee's, or its agents', employees', or contractors' ("Franchisee Parties"), use of the Rights-of-Way within the City, and shall pay the costs of defense plus reasonable attorneys' fees for any claim, demand or lien brought thereunder. The City shall: (a) give prompt written notice to Franchisee of any claim, demand, or lien with respect to which the City seeks indemnification hereunder; and (b) unless in the City's judgment a conflict of interest exists between the City and Franchisee with respect to such claim, demand, or lien, permit Franchisee to assume the defense of such claim, demand, or lien with counsel satisfactory to City. If such defense is not assumed by Franchisee, Franchisee shall not be subject to liability for any settlement made without its consent. Notwithstanding any provision hereof to the contrary, Franchisee shall not be obligated to indemnify, defend, or hold the City harmless to the extent any claim, demand, or lien arises out of or in connection with any negligent or willful act or failure to act of the City Parties. Franchisee agrees that it is not an agent of the City and is not entitled to indemnification and defense under ORS 30.285 or 30.287.

4.12.090 Insurance

Franchisee shall purchase and maintain at Franchisee's expense, or otherwise provide through a program of self-insurance, Commercial General Liability and Commercial Automobile Insurance covering bodily injury and property damage in an amount of Five Million Dollars ($5,000,000.00). Franchisee's insurance policy shall be primary and non-contributory, and Franchisee shall remain fully responsible for any claims resulting from negligence or intentional misconduct of Franchisee or Franchisee Parties in performance of this Agreement, even if not covered by or in excess of insurance limits. Additionally, Franchisee shall obtain and maintain Workers' Compensation insurance required by ORS Ch. 656. Franchisee shall ensure that each of its contractors obtains and maintains workers' compensation insurance and obtains proof of the coverage before performing work. Franchisee shall provide proof of coverage required by this Section, by acceptable Certificate of Insurance and Endorsement from their respective carrier(s) or, if self-insured, a certificate of self-insurance with respect to the same. The City may, at any time, terminate this Franchise for Franchisee's failure to maintain the required insurance.

4.12.100 Annexation

1. **Extension of City Limits**. Upon the annexation of any territory to the City, the rights granted herein shall extend to the annexed territory to the extent the City has such authority. All Electric Facilities owned, maintained, or operated by Franchisee located within any Right-of-Way of the annexed territory shall thereafter be subject to all of the terms hereof.

2. **Annexation**. When any territory is approved for annexation to the City, the City shall, no later than ten (10) calendar days after passage of an ordinance approving the proposed annexation, provide by both first-class and certified mail to Franchisee:

    a. each site address to be annexed as recorded on county assessment and tax rolls;

    b. a legal description of the proposed boundary change; and

    c. a copy of the City's ordinance approving the proposed annexation.

    The notice shall be mailed to the addresses set forth in Section 21 of this Agreement.

    Additional or increased fees or taxes, other than ad valorem taxes, imposed on Franchisee as a result of an annexation of territory to the City shall become effective on the effective date of the annexation provided notice is given to Franchisee in accordance with ORS 222.005, as amended from time to time.

4.12.110 Planning, Design, Construction, and Operation of Electric Facilities

1. Franchisee shall conduct its operations under this Agreement, including construction, installation, maintenance, repair, replacement, upgrade, and operation of its Electric Facilities in accordance with applicable federal, state and city laws, codes and regulations.
2. Except in the case of an emergency, Franchisee shall, prior to commencing new construction or major reconstruction work in the Right-of-Way, apply for a permit from the City. The City shall not allow the permit to be unreasonably withheld, conditioned, or delayed. Franchisee will abide by all applicable ordinances and all reasonable rules, regulations and requirements of the City, and the City may inspect the manner of such work and require remedies as may be necessary to assure compliance. Nothing in this Agreement shall be construed to limit the right of the City to require Franchisee to pay permit or to cover reasonable costs incurred by the City in connection with the issuance of a permit, making an inspection, or performing any other service for or in connection with the Franchisee or its Electric Facilities. Notwithstanding the foregoing, Franchisee shall not be obligated to obtain a permit to perform emergency repairs.
3. All Electric Facilities shall be located so as to cause minimum interference with the Rights-of-Way of the City and shall be constructed, installed, maintained, cleared of vegetation, renovated, or replaced in accordance with applicable rules, ordinances, and regulations of the City.
4. **Restoration**. If, during the course of work on its Electric Facilities, Franchisee

causes damage to or alters the Right-of-Way or public property, Franchisee shall (at its own cost and expense and in a manner approved by the City) replace and restore it to a condition comparable to that which existed before the work commenced. City may refuse to issue additional permits to Franchisee if Franchisee fails to restore said Right-of-Way or public property within sixty (60) days of the original damage or alteration or such longer period as is approved by City, acting in its reasonable discretion based on the nature and scope of the required work and all other applicable circumstances.

5. **Notification**. City and Franchisee shall comply with the requirements of Oregon Utility Notification Law and implementing rules and regulations in connection with the work performed by or on behalf of each of them in the Rights of Way.

6. In addition to the installation of underground electric distribution lines as provided by applicable state law and regulations, Franchisee shall, upon payment of all charges provided in its tariffs or their equivalent, place newly constructed electric distribution lines underground as may be required by City ordinance.

7. The City shall have the right to use all poles and suitable overhead structures owned by Franchisee within the Rights-of-Way without cost for City wires used in connection with its fire alarms, police signal systems, or other communication lines used for governmental purposes; provided, however, any such uses shall be for activities owned, operated, or used by the City for a public purpose and shall not include the provision of CATV, internet, or similar services to the public. Provided further, that Franchisee shall assume no liability, nor shall it incur, directly or indirectly, any additional expense in connection therewith, and the use of said poles and structures by the City shall be in such a manner as to prevent safety hazards or interferences with Franchisee's use of same. Nothing herein shall be construed to require Franchisee to increase pole size or alter the manner in which Franchisee attaches its equipment to poles, or alter the manner in which it operates and maintains its Electric Facilities. City attachments shall be installed and maintained in accordance with the reasonable requirements of Franchisee and the current edition of the National Electrical Safety Code pertaining to such construction. Further, City attachments shall be attached or installed only after written approval by Franchisee.

8. Subject to the aforementioned requirements of sub-section 10.2, Franchisee shall have the right to excavate the Rights-of-Way subject to reasonable conditions and requirements of the City, including but not limited to Stayton Municipal Code Section 12.04.140. Before installing new underground conduits or replacing existing underground conduits, Franchisee shall first notify the City of such work and shall allow the City, at its own expense, to share the trench of Franchisee to lay its own conduit therein, provided that such action by the City will not unreasonably interfere with Franchisee's Electric

Facilities or delay project completion.

9. Before commencing any street improvements or other work within a Right-of-Way that may affect Franchisee's Electric Facilities, the City shall give written notice to Franchisee.

10. No structures, buildings, or signs shall be erected below Franchisee's Electric Facilities or in a location that prevents access by Franchisee to maintain its facilities.

4.12.120 Franchisee Records and Reports

1. **Reports and Mapping**. Franchisee shall provide the City with a report of all new services created within City boundaries on an annual basis during the term of this Franchise, and said report shall include, at City's advance written request, electronic mapping of Franchisee's Electric Facilities within the City limits. The City shall confirm receipt of the report and request any corrections thereto to Franchisee within a reasonable time following receipt of the report.

   Franchisee's electronic mapped facility data will consist of poles, pad mount transformers, and wire located within the city limits w. Attribute information will be limited to facility identifiers. Data can be provided in a ESRI compatible geodatabase with associated metadata or other mutually agreed upon format.

   With respect to any information, including but not limited to the mapping data, which Franchisee furnishes or otherwise discloses to the City under this section, Franchisee does not make any representations or warranties as to the accuracy, completeness or fitness for a particular purpose thereof. It is further understood and agreed that neither Franchisee nor its representatives shall have any liability or responsibility to the City or another party or to any other person or entity resulting from the use of any information or data so furnished or otherwise provided. Mapping data is provided for general location purposes only and may not accurately identify the exact location of facilities or current construction. No attempt has been made to verify the records to reflect current site conditions and Franchisee is not responsible or liable for any injury, death or damage that may result from differing site conditions.

   The information furnished by Franchisee is provided with the understanding that the City will treat the information as confidential, to the extent possible, under the Oregon Public Records Act. If a public records request is made for any respective information included under this Agreement, the City will provide Franchisee with notice of the request and sufficient time to seek a protective order prior to providing the documentation to any third party.

2. **Books and Records; Audit**. Franchisee shall keep accurate books of financial accounts at an office within the State of Oregon throughout the term of this

Franchise, and for at least six (6) years after the expiration or termination of this Franchise Agreement. Franchisee shall produce all books and records directly concerning its Gross Revenues and other financial information necessary to calculate the Franchise Fee consistent with Section 15 below for inspection by City, upon 10 days' written notice, during normal working hours; provided that only records that support payments which occurred during a period of three (3) years prior to the date the City notifies Franchisee of its intent to conduct an inspection shall be subject to review. The City shall have the further right during the term of this Franchise, or within 180 days after expiration or termination of the Franchise, to audit Franchisee's records for the period of three years prior to the audit. If the audit reveals underpayment of seven percent (7%) or more, the City may expand the audit to cover up to six (6) years. The audits shall be undertaken by a qualified person or entity selected by the City, and the cost shall be borne by the City, unless the results of the audit reveal an underpayment of more than seven percent (7%) or more, then the full cost of the audit shall be paid by the Franchisee. Franchisee shall promptly pay the portion of the underpayment as determined by the audit not subject of a good faith dispute to City together with five percent (5%) annual interest from the date the payment should have been made to the date the payment is actually made. Any audit information obtained by the City shall be kept confidential to the maximum extent allowed by Oregon law.

4.12.130 City Rights and Obligations

1. **Supervision and Inspection**. With respect to all work performed by Franchisee under this Agreement, the City shall have the right to inspect all construction and installation of Franchisee's Electric Facilities to ensure compliance with governing laws, ordinances, rules, and regulations.
2. **Termination and Abandonment**. In the event of termination of this Franchise, if the City and Franchisee are not engaged in efforts to renew or renegotiate the terms of this Franchise, all the overhead Electric Facilities installed or used by Franchisee shall be removed by Franchisee at Franchisee's expense, or decommissioned and abandoned in place with approval of the City, and the property on which the Electric Facilities were used restored by Franchisee to the condition it was in before installation; and all underground Electric Facilities installed or used by Franchisee shall be decommissioned and abandoned in place. Consistent with state law, such removal or decommissioning and abandonment shall occur within one (1) year of termination or expiration of this Franchise.
3. **City's Work in Right-of-Way**. Whenever the City performs, causes, or permits to be performed any work within the Right-of-Way or adjacent property where, in the City's opinion, such work would disturb or interfere with Franchisee's Electric Facilities, the City shall, or shall require its agents, employees, or contractors, to notify, in writing, Franchisee sufficiently in

advance of the contemplated work to enable Franchisee to take such measures as may be necessary to protect it its Electric Facilities.

4. **Subdivision Plat Notification**. Before the City approves any new subdivision the City shall provide notice of the proposed subdivision and request for comments to PacifiCorp:

   Pacific Power
   Attn: Property Management/Right-of-Way Department
   830 Old Salem Road
   Albany, Oregon 97321

4.12.140 Relocation of Electric Facilities

1. **City Request**. The City reserves the right to require Franchisee to relocate overhead Electric Facilities within the Rights-of-Way in the interest of public convenience, necessity, health, safety or welfare, at no cost to the City. Within ninety (90) days after written notice to Franchisee that Franchisee may proceed with such relocation, Franchisee shall commence the overhead relocation of its Electric Facilities. Before requiring a relocation of Electric Facilities, the City shall, with the assistance and consent of Franchisee, identify a reasonable alignment for the relocated Electric Facilities within the Right of Way.

2. **Developer or Third-Party Request**. Franchisee shall not be obligated to pay the cost of any relocation that is required or made a condition of a private development. If the removal or relocation of facilities is caused directly or otherwise by an identifiable development of private property in the area or any project sponsored or funded by a third party (including but not limited to any governmental agency or instrumentality other than the City), or is made for the benefit or convenience of a third-party (e.g., a customer of Franchisee), Franchisee may charge the expense of removal or relocation of the Electric Facilities to the developer or other third-party. For example, Franchisee shall not be required to pay relocation costs in connection with a road widening or realignment where the road project is made a condition of, or caused by, a private development. The City shall require the developer or third-party to pay Franchisee for such relocation costs, as part of its approval procedures (for example, a condition of approval). However, Franchisee shall be solely responsible for enforcing collection from the developer or other third-party, but Franchisee shall not be required to remove or relocate Electric Facilities for the benefit of third-parties until it receives payment for the removal or relocation. "Caused directly," as used in this sub-section, shall mean that the removal or relocation of Facilities due to private development or third party project is necessary to enable the developer or third party to make any improvements or otherwise satisfy any conditions required under any permit, rule, regulation, or other requirement applicable to the project.

3. **Underground Conversion**. In cases of any project undertaken by the City, Franchisee shall remove and replace overhead Facilities with underground Facilities at the request of the City, so long as Franchisee is allowed to collect the costs associated with conversion from overhead to underground distribution facilities consistent with OAR 860-022-0046, the Oregon Public Utility Commission rule on forced conversions.

4. **Relocation Request; Responsiveness**. Franchisee agrees to respond within a reasonable timeframe but no later than thirty (30) days following a written request from City to all City requests (i) for relocation or conversions of Facilities within or around the Right-of-Way; (ii) for discussion(s) or meeting(s) on possible relocations or conversions; and (iii) for discussion(s) or meeting(s) on design, planning, or implementation of public works or other development projects or other proposals regarding the Right of Way, whether City initiated or private development, that may impact the Franchisee's Electric Facilities.

4.12.150 Vegetation Management

Franchisee or its contractor may prune all trees and vegetation which overhang the Rights-of-Way, whether such trees or vegetation originate within or outside the Rights-of-Way, to prevent the branches or limbs or other part of such trees or vegetation from interfering with Franchisee's Electric Facilities. Such pruning shall comply with the American National Standard for Tree Care Operation (ANSI A300) and be conducted under the direction of an arborist certified with the International Society of Arboriculture. A growth inhibitor treatment may be used for trees and vegetation species that are fast-growing and problematic. Nothing contained in this section shall prevent Franchisee, when necessary and with the approval of the owner of the property on which they may be located, from cutting down and removing any trees which overhang streets.

4.12.160 Compensation

1. **Franchise Fee**. In consideration of the rights, privileges, and franchise hereby granted, Franchisee shall pay to the City from and after the Effective Date of the acceptance of this franchise, seven percent (7%) of its Gross Revenues derived from within the corporate limits of the City. The Franchise Fee shall be due and payable within 30 (thirty) days after the end of each month. With respect to any amount or portion thereof past due hereunder that is not disputed in good faith by Franchisee, the City shall have the right to charge interest at the rate of five percent (5%) per annum. With each payment, Franchisee shall furnish City with a written statement setting forth the amount of Gross Revenues of Franchisee within the City for the monthly period covered by the payment. City's acceptance of any payments due under this Section shall not be considered a waiver by the City of any breach of this Franchise.

All amounts paid under this section shall be subject to review by the City; provided that only payments which occurred during a period of thirty-six (36) months prior to the date the City notifies Franchisee of its intent to conduct a review shall be subject to such review. Notwithstanding any provision to the contrary, at any time during the term of this Franchise, the City may elect to increase the Franchise Fee amount as may then be allowed by state law. The City shall provide Franchisee with prior written notice of such increase following adoption of the change in percentage by the City. The increase shall be effective sixty (60) days after City has provided such written notice to Franchisee.

2. The Franchise Fee shall not be in addition to any other license, occupation, franchise, or excise taxes or charges, excluding applicable permit fees under Section 10.2 and relocation expenses required to be paid by Franchisee under this Franchise, which might otherwise be levied or collected by the City from Franchisee with respect to Franchisee's electric business or the exercise of this franchise within the corporate limits of the City and the amount due to the City under any such other license, occupation, franchise or excise taxes or other charges for corresponding periods shall be reduced by deducting there from the amount of said franchise fee paid hereunder.

4.12.170 Renewal

If neither party provides written notice of non-renewal to the other party at least six (6) months prior to the expiration of the Initial Term, after the Initial Term, this Agreement shall renew automatically for one year; and thereafter, this Agreement will continue to renew automatically each year for up to a total of ten (10) years. Franchisee shall have the continued right to use the Rights-of-Way of the City as set forth herein in the event an extension or replacement Franchise is not entered into upon expiration of this Franchise.

4.12.180 No Waiver

Neither the City nor Franchisee shall be excused from complying with any of the terms and conditions of this Franchise by any failure of the other, or any of its officers, employees, or agents, upon any one or more occasions to insist upon or to seek compliance with any such terms and conditions.

4.12.190 Transfer of Franchise

Franchisee shall not sell, assign, dispose of, lease, assign, or transfer in any manner whatsoever any interest in this Franchise, without written consent of the City, which consent shall not be unreasonably withheld, conditioned, or delayed. In the event the City provides such consent, the City may impose reasonable conditions, including but not limited to the requirement that the transferee acknowledge in

writing and agree to be bound by the terms of this Franchise. City shall have the right to collect from Franchisee the actual administrative costs associated with processing a transfer request, including the cost of ascertaining the financial responsibility of the proposed transferee. Franchisee may mortgage this Franchise, together with its Electric Facilities, in order to secure any legal bond issue or other indebtedness of Franchisee, with no requirement of City's consent or that the trustees acknowledge in writing and agree to be bound by the terms of this Franchise.

4.12.200 Amendment

At any time during the term of this Franchise, the City, through its City Council, or Franchisee may propose amendments to this Franchise by giving thirty (30) days written notice to the other of the proposed amendment(s) desired, and both parties thereafter, through their designated representatives, will, within a reasonable time, negotiate in good faith in an effort to agree upon mutually satisfactory amendment(s). No amendment or amendments to this Franchise shall be effective until mutually agreed upon by the City and Franchisee and formally adopted as an ordinance amendment.

4.12.210 Termination and Enforcement

1. **Termination**. The City may terminate this Franchise Agreement upon the failure of Franchisee to perform any material term, condition, or obligation imposed upon it under this Agreement; provided that the City shall first provide Franchisee written notice of any such failure and Franchisee shall have sixty (60) days from receipt of such notice to cure the failure, or if the failure cannot be reasonably cured with sixty (60) days, to commence and diligently pursue curing the failure. If Franchisee does not cure the failure within the sixty (60) day period, or does not commence and diligently pursue curing the failure, then the City Council may declare the Franchise Agreement terminated. The City shall provide a notice of termination to Franchisee, following the declaration of termination by City Council. Franchisee may challenge the notice of termination by providing a written protest to City Manager within twenty (20) business days of the date of the notice of termination. City Manager, upon receipt of protest, shall refer the protest to City Council for a public hearing and decision. The termination will not become final until a decision is made by City Council, at a public meeting. Given the public health and safety considerations that arise as a result of cessation of power distribution within the City, if the City decides to terminate the Franchise, it shall set a termination date that allows for implementation of a plan to assure continued electrical power delivery service.
2. **Non-contestability**. Neither the City nor Franchisee will take any action for the purpose of securing modification of this Franchise before either the Oregon

Public Utility Commission or any Court of competent jurisdiction; provided, however, that neither shall be precluded from taking any action it deems necessary to resolve difference in interpretation of the Franchise nor shall Franchisee be precluded from seeking relief from the Courts in the event Oregon Public Utility Commission orders, rules or regulations conflict with or make performance under the Franchise illegal.

3. **Additional Claims; Remedies Non-Exclusive**. Notwithstanding the termination procedures under section 20.1 above, in the event Franchisee or the City fails to fulfill any of their respective obligations under this Franchise, the City, or Franchisee, whichever the case may be, will have a breach of contract claim and remedy against the other in addition to any other remedy provided by law, provided that no remedy which would have the effect of amending the specific provisions of this Franchise shall become effective without such action which would be necessary to formally amend the Franchise. The parties agree to make best and reasonable efforts to confer and discuss potential issues that may arise under this Agreement prior to exercising any additional breach of contract or legal claims, as may be available under law. All remedies granted herein under this Agreement are cumulative, and recovery or enforcement of one is not a bar to the recovery or enforcement of any other remedy. Failure to enforce any provision of this Agreement shall not be construed as a waiver of a breach of any other term, condition, or obligation of this Agreement.

4.12.220 Notices

Unless otherwise specified herein, all notices from Franchisee to the City, or the City to Franchisee, pursuant to or concerning this Franchise shall be delivered to:

FRANCHISEE

PacifiCorp Customer Contact Center
P.O. Box 400
Portland, Oregon 97202-0400

CITY OF STAYTON

Attn: City Manager
362 N. Third Avenue
Stayton, Oregon

WITH A COPY TO:

PacifiCorp
Attn: Office of the General Counsel
825 NE Multnomah, Suite 2000
Portland, Oregon 97232

4.12.230 Severability

If any section, sentence, paragraph, term or provision hereof is for any reason determined to be illegal, invalid, or superseded by other lawful authority including any state or federal regulatory authority having jurisdiction thereof or unconstitutional, illegal or invalid by any court of common jurisdiction, such

portion shall be deemed a separate, distinct, and independent provision and such determination shall have no effect on the validity of any other section, sentence, paragraph, term or provision hereof, all of which will remain in full force and effect for the term of the Franchise or any renewal or renewals thereof.

4.12.240 Waiver of Jury Trial

To the fullest extent permitted by law, each of the parties hereto waives any right it may have to a trial by jury in respect of litigation directly or indirectly arising out of, under or in connection with this agreement. Each party further waives any right to consolidate any action in which a jury trial has been waived with any other action in which a jury trial cannot be or has not been waived.

4.12.250 Governing Law Interpretation

Interpretation of this Franchise Agreement shall be governed by the laws of the State of Oregon and any legal action relating to this Franchise Agreement shall be brought in Marion County Circuit Court.

4.12.260 Effective Date

This Agreement shall be made effective upon the date on which the ordinance adopting this Agreement is effective ("Effective Date"), April 7, 2025.

CHAPTER 4.16
SCTC FRANCHISE

SECTIONS

4.16.010 DEFINITIONS

ADMINISTRATOR: The City Administrator of the City of Stayton or such Person as may be designated by the City Administrator for the administration of this franchise.

BRIDGE: Includes a structure erected within the City to facilitate the crossing of a river, stream, ditch, ravine, or other place.

CITY: The City of Stayton, Oregon, and the area within its boundaries including its boundaries as extended in the future, and all property owned by the City outside City limits.

CITY COUNCIL: The legislative body of the City, or its authorized designee.

EASEMENT: Public right-of-way, private utility Easement on private or public property, or public utility Easement on public or private property but not including a private utility Easement for a customer's service drop.

FACILITIES: All property, equipment and fixtures used by Stayton Cooperative Telephone Company in the provision of telecommunication services.

FRANCHISE TERRITORY: This area within the legal boundaries of City, and including areas annexed during the term of the franchise.

MAY: Is permissive.

PERSON: Includes an individual, corporation, statutory entity (LLC, intergovernmental agency, etc.), firm, partnership, and joint stock company.

PUBLIC PLACE: Includes any City owned or leased park, place, facility, or grounds within the City that is open to the public, but does not include a Street or Bridge.

PUBLIC RIGHTS OF WAY: Includes, but is not limited to streets, roads, highways, bridges, alleys, sidewalks, trails paths, parking strips, public Easement on private property, and all other public ways, including subsurface and air space over these areas.

SHALL: Is mandatory.

STREET: Includes the surface, the air space above the surface, and the area below the surface of any public Street, alley, avenue, road, boulevard, thoroughfare, or public highway, and other Public Rights of Way, including public utility Easements, but does not include a Bridge or Public Place.

4.16.020 Grant of Franchise

1. The City of Stayton hereby grants to Grantee a nonexclusive franchise to use the Public Rights of Way within the City solely to provide telecommunications services as defined in Oregon statute.

4.16.030 Term

1. The term of this franchise shall be until December 31, 2016, commencing with the effective date of this Ordinance, and subject to its terms and conditions. (Ord 986, November 2015)

4.16.040 Franchise Area

1. The Grantee is authorized by this franchise to use the Public Rights of Way and public utility Easements throughout the City, as the City limits may exist now or in the future, to the extent of City's authority to allow such use.

4.16.050 Franchise Fee

1. As consideration for the use of the City's Rights of Way, Grantee shall remit to the City seven percent (7%) of its gross revenues earned within the boundaries of the City. As used herein, "gross revenues" has the meaning given that term in ORS 221.515(2). Each and every term, provision or condition of this Ordinance is subject to the applicable provisions of state law, federal law, the Oregon Public Utility Commission (PUC), the Federal Communications Commission (FCC), and the rules and regulations enacted pursuant thereto.

2. Franchise fee payments shall be made monthly, on or before ten (10) days after the end of the preceding month, continuing through the term of this franchise.

3. With each payment of compensation required by this Section, Grantee shall furnish to City a statement showing the amount of Grantee's revenue earned within the City for the period covered by the payment and including an explanation of the basis upon which the amount of compensation is calculated.

4. In the event that a franchise fee payment or other sum is not received by the Grantor on or before the due date, or is underpaid, the Grantee shall pay in addition to the payment, or sum due, interest from the due date at a rate equal to nine percent (9%) per annum or two percent (2%) above the highest prime lending rate published by the Wall Street Journal during the period the payment is overdue, whichever is lesser.

5. Pursuant to this Franchise, Grantee shall prepare and furnish to the Grantor, upon request, such additional reports with respect to Grantee's revenues earned in the exercise of this Franchise, as may be reasonably necessary and appropriate to ensure compliance with the material provisions of this Franchise, or to permit the performance of any of the lawful rights, functions or duties of the Grantor. Grantee and Grantor agree to the use of Grantee's reporting formats, provided such

formats will properly make available the information or reporting data requested by the Grantor. Grantor's approval of reporting formats shall not be unreasonably withheld.

6. The City shall have the right to conduct, or cause to be conducted, an audit of gross local exchange access revenues as defined herein for the purpose of ascertaining whether Grantee's franchise fee payments have met the requirements of this franchise. The cost of any such audit shall be borne by City, unless the results of any such audit reveal an underpayment of more than five percent (5%) of the franchise fee for the period audited. In the case of such underpayment, the full cost of such audit shall be paid by Grantee. Any difference of payment due either the City or the Grantee following audit shall be payable within thirty (30) days of written notice to the affected party.

7. If any right is granted by lease, franchise, or other manner, to use and occupy any City Public Place for the installation of telecommunications Facilities by Grantee, the compensation to be paid for such right and use shall be fixed by the City.

4.16.060 Franchise Acceptance

1. Within thirty (30) days of passage of this Ordinance by the City Council, Grantee shall file with the City Administrator a written statement accepting the terms and conditions of this franchise in substantially the form as is attached hereto as **Exhibit A.**

    a. **Exhibit A**

ACCEPTANCE AND PROMISE

City of Stayton
362 North Third Avenue
Stayton, OR 97383
Attn: City Administrator

Letter of Acceptance and Promise

To: City of Stayton

1. Grantee, through its authorized representative below signed does hereby submit this sworn and notarized Letter of Acceptance and Promise.

2. The signatory to this letter had full authority to make the statements and representations in this letter on behalf of the Grantee.

3. The Grantee, by and through the below signed and sworn representative hereby unconditionally accepts and promises to comply with all terms, provisions and conditions of the telecommunications services Franchise granted by the City of Stayton, in accordance with federal, state, and local laws.

4. This Letter of Acceptance and Promise is binding upon the Grantee as of the Effective Date of the Franchise Agreement, October 20th, 2003, and throughout its term.

Stayton Cooperative Telephone Company
By: _____
Title: _____
Date: _____

State of OREGON
County of _____

Signed and Sworn before me on _____, 20__.

_____
Notary Public – State of Oregon

My commission expires: _____

4.16.070 Franchise Non-Exclusive

1. The franchise hereby granted is not exclusive, and shall not be construed as any limitation on the right of the City to grant rights, privileges, and authority to other Persons or corporations or to itself to make any lawful use of the City's Rights of Way.

4.16.080 Customer Service Standards

1. City and Grantee mutually recognize that customer service is an important consideration of the City for this franchise grant.

4.16.090 Construction and Facility Maintenance Standards

1. Grantee shall at all times keep and maintain all of its poles, fixtures, conduits, wires, and its entire system in a good state of repair and shall at all times conduct its operations under this franchise, including installation, construction or maintenance of its Facilities, in a safe and well-maintained manner so as not to present a danger to the public or City.

2. The location, construction, extension, installation, maintenance, removal, and relocation of the Facilities of Grantee shall conform to:

    a. The requirements of the State and Federal statutes and regulations in force at the time of such work; and
    b. Provisions of the Stayton Municipal Code and the City's standard specifications for construction, as amended from time to time.

3. Grantee shall file with the City, maps that meet City specifications showing the location of any construction, extension, or relocation of any of its Facilities, and must first obtain City's approval of the location and plans prior to the commencement of the work. Grantee shall be required to obtain a permit from City before commencing the construction, extension, or relocation of any of its Facilities within Public Rights of Way or Public Utility Easements.

4.16.100 Excavation and Restoration

1. Grantee shall comply with all applicable ordinances, municipal codes, rules or regulations that may pertain to its activities within Easements, Public Places, and Public Rights of Way of City.

2. All structures, lines, and equipment erected by Grantee within the City shall be located so as to cause minimum interference with the proper use of Streets, alleys, and other Public Rights of Way and places, and to cause minimum interference with the rights and reasonable convenience of property owners who adjoin any of the Streets, alleys, or other Public Rights of Way or places.

3. Pursuant to Stayton Municipal Code Section 12.04.140, no newly overlaid Street or newly constructed Street shall be excavated by Grantee for a period of five (5) years from the time of completion of the Street overlay or the Street construction unless specifically authorized by City, or in cases of an emergency declared by authorized City, state, or federal officials. Such authorization shall not be unreasonably withheld.

4. All installations by Grantee in new residential subdivisions shall be, wherever and whenever practical, placed in conjunction with all other utility installations in compliance with existing regulations.

5. When any excavation is made by Grantee, Grantee shall, within seven (7) calendar days, upon completion of the work within the excavation, restore the affected portion of the Street, Bridge, Easement area, private property, or Public Place to as reasonably good condition as it was prior to the excavation. The restoration shall be done in compliance with City specifications, requirements, and regulations in effect at the time of such restoration and shall be guaranteed for a period of one year following inspection and acceptance of the restoration by City. If Grantee fails to restore within seven (7) calendar days, the affected portion of the Street, Bridge, Easement area, private property, or Public Place to as reasonably good a condition as it was prior to the excavation, City may, after providing notice in writing to Grantee and allowing Grantee five (5) calendar days to cure, make the restoration, and the reasonable costs of making the restoration, including the cost of inspection, supervision, and administration shall be paid by Grantee. City may grant an extension to the seven (7) calendar day requirement of this Section.

6. In cases where a defective repair is made by Grantee, the City may, after providing notice in writing to Grantee and allowing Grantee five (5) calendar days to cure, remove or repair any work done by Grantee that, in the determination of Grantor, is inadequate. The cost thereof, including the cost of inspection, supervision, and administration shall be paid by Grantee.

7. In cases where the City determines there is a need for a temporary repair for public safety reasons or due to weather conditions, the City may require that any excavation made by Grantee in any Street, Bridge, or Public Place be filled and the surface replaced by City, and that the reasonable cost thereof, including the cost of inspection, supervision, and administration shall be paid by Grantee. The City may require that particular materials match materials already in place in temporary or permanent repairs.

8. The reasonable costs of excavation and restoration incurred by City pursuant to this Section, including the cost of inspection, supervision, and administration shall be paid by Grantee to City in accordance with the standard billing policy of City in effect at the time the excavation or restoration occurred.

4.16.110 Relocation of Facilities

1. Grantee shall, at its expense, protect, support, temporarily disconnect, or relocate any of its equipment or Facilities as required to promote the public interest when requested to do so by City by reason of traffic conditions, public safety, Street vacation, freeway and Street construction, change or establishment of street grade, installation of sanitary or storm sewer lines, water pipes, power lines, signal lines, or tracks, or any other type of structures or public improvements by City or its agents. Relocation of Facilities required by City shall be completed within a time limit mutually agreed to by City and Grantee.

2. A written request for facility relocation may be initiated directly by City or by a private developer or contractor installing or modifying public infrastructure under the approval of City; provided Grantee may charge the expense of removal or relocation to the developer or contractor that makes a request, directly or indirectly, if the removal or relocation is caused by an identifiable development of property in the area, or is made for the convenience of a developer or contractor. Grantee shall not be reimbursed for removal or relocation requested by, and for the sole convenience of the City.

3. All Facilities relocated in the Public Rights of Way shall be placed in coordination with City and other affected utilities.

4. If Grantee fails to comply with any requirement of City pursuant to this Section, City may remove or relocate the Facilities at Grantee's expense.

4.16.120 Tree and Vegetation Pruning

1. Subject to the provisions of this ordinance, Grantee may prune trees and vegetation when necessary in Easements for the operation of its Facilities, provided such tree and vegetation work is performed at Grantee's expense and in compliance with vegetation pruning standards that may exist now or may be hereafter promulgated by the OPUC.

2. Grantee shall provide a written notice to the City and property owner and resident at least ten (10) business days prior to any pruning to be done on the property. City recognizes that a ten (10) day notice may not be possibly in emergency situations; however, City does encourage Grantee to provide as much advance notice to property owners and residents as is reasonably possible under such emergency circumstances.

4.16.130 Use of Facilities by City

1. As additional consideration for the franchise and privileges granted to Grantee pursuant to this franchise, City shall have the free right and privilege to install, or affix and maintain Street lights, wires, seasonal decorations and equipment for municipal purposes upon the aerial facilities in the right of way and available for use, excluding underground Facilities, owned and/or maintained by Grantee. For the purpose of this Section, the term "municipal purposes" means all municipal purposes and includes, but is not limited to, the use of such aerial facilities for:

    a. Municipal fire, police, water, wastewater, and storm water utility service wires and equipment.
    b. Municipal interdepartmental computers and communications.
    c. Municipal fire alarm and police and traffic signals, signs, and equipment.
    d. Seasonal decorations and special event banners and attachments authorized by the City.

2. City shall install, affix, maintain, and operate its wires and equipment at its own expense and in accordance with the requirements of State and Federal law, and regulations adopted pursuant thereto, and in accordance with good engineering practice and safety standards. The wires and equipment of City shall be subject to interference by Grantee only when necessary for the maintenance, operation or repair of the Facilities of Grantee. Grantee's actions shall not unduly interfere with City's safe and convenient use of its installations.

3. City shall install, affix, maintain, and operate its wires and equipment in such a manner as not to impose any undue additional expense upon Grantee, or unduly interfere with the safe and convenient use and maintenance by Grantee of its structures and installations.

4. If there is not sufficient space available thereon for said purposes, Grantee shall to the extent feasible change, alter or rearrange its structures at City's expense so as to provide proper clearance for such wires and appurtenant Facilities.

5. If the City attaches its wires and equipment to the Grantee's structures and/or facilities, the City agrees not to provide commercial telecommunication services similar to the services provided by the Grantee using those wires and equipment.

6. To the extent permitted by Oregon law, City shall indemnify, protect, and hold Grantee, its officers, employees and agents, harmless against and from any and all damages, claims, loss, liability, cost or expense resulting from damage to property or injury or death to any third Person

to the extent caused by or arising out of the installation, maintenance, existence, or use of the installations for municipal purposes as described in this Section.

4.16.140 Emergency Removal and Alternate Routing of Facilities

1. If at any time, in case of fire or disaster in the Franchise Territory, it shall become necessary in the reasonable judgment of City to cut or move any of the wires, equipment or other appurtenances to the system of Grantee, such cutting or moving may be done and any repairs rendered necessary thereby shall be made by Grantee, at its sole expense, provided that such repairs are not necessitated by a negligent act of City, in which case costs for repairs shall be borne by City.

2. In the event continued use of a Street or Easement is denied to Grantee by City, Grantee shall provide service to affected customers over such alternate routes as shall be determined by Grantee with a reasonable period of time. City shall provide or attempt to provide an alternate route if continued use of a Street or Easement is denied to Grantee.

4.16.150 Public Works and Improvements

1. City reserves the right to:

    a. Construct, install, maintain, and operate any public improvement, work, or facility.
    b. Do any work that City may find desirable on, or over, or under any Street, Bridge, or Public Right of Way.
    c. Vacate, alter, or close any Street, Bridge, or Public Right of Way.

2. Whenever City shall excavate or perform any work in any of the present and future Streets, alleys, and Public Rights of Way of City, or shall contract or issue permits to others for such excavation or work, where such excavation or work may disturb Grantee's underground Facilities, the City may, in writing, notify Grantee sufficiently in advance of such contemplated excavation or work to enable Grantee to take such measures as may be deemed necessary to protect such underground Facilities from damage and possible inconvenience to the public. In any such case, Grantee, upon receiving such notice, shall furnish maps or drawings to City or contractor, as the case may be, showing the approximate location of all its structures in the area involved in such proposed excavation or other work.

3. Whenever City shall vacate any Street or Public Place for the convenience or benefit of any Person or governmental agency or instrumentality other than City, Grantee's rights shall be preserved as to any of its Facilities then existing in such Street or Public Place.

4. Provided the City complies with statutory utility notification requirements, unless directly and proximately caused by willful, intentional or malicious acts by the City, the City shall not be liable for any damage to or loss of any telecommunications facility within the Public Rights of Way of the City as a result of or in connection with any public works, public improvements,

construction, excavation, grading, filling, or work of any kind in the Public Rights of Way by or on behalf of the City, or for any consequential losses resulting directly or indirectly therefrom.

4.16.160 Rearrangement of Facilities to Permit Moving of Buildings and Other Objects

1. Upon reasonable advance notice in writing from any Person desiring to move a building or other object, Grantee shall temporarily raise, lower, or remove its Facilities upon any Street, Bridge, or Public Place within the City, when necessary, to permit the Person to move the building or other object across or along such Street, Bridge, or Public Place. The raising, lowering, or removal of the Facilities of Grantee shall be in accordance with all applicable ordinances and regulations of City.

2. The notice required by this Section shall bear the approval of the Administrator, shall detail the route of movement of the building or other objects, and shall provide the actual expense incurred by Grantee in making the temporary rearrangement of its Facilities, including the cost to Grantee of any interruption of service to its customers caused thereby. It shall further provide that the Person giving said notice will indemnify and save Grantee harmless from any and all damages or claims whatsoever caused directly or indirectly from such temporary rearrangement of Grantee's Facilities.

3. Grantee, before making the temporary rearrangement of its Facilities, may require the Person desiring the temporary rearrangement to deposit cash or other adequate security reasonably acceptable to Grantee, to secure payment of the costs of rearrangement as estimated by Grantee.

4. Upon advance notice by City of its own intent to move a building or other object, either its governmental or proprietary capacity and for the sole benefit of City, the temporary rearrangement of Grantee's Facilities shall be accomplished by Grantee at no cost to City.

4.16.170 Insurance and Financial Provisions

1. **Insurance.** Grantee shall have in full force and effect the following coverage, and shall file evidence thereof with the City Administrator upon the effective date of this franchise and not less frequently than annually thereafter:

    a. Comprehensive general liability insurance with limits not less than:
        i. One million dollars for bodily injury or death to each Person;
        ii. One million dollars for property damage resulting from any one accident; and,
        iii. Three million dollars for all other types of liability.

    b. Automobile liability for owned, non-owned, and hired vehicles with a limit of one million dollars for each Person and a combined limit of three million dollars for each accident.

c. Workers' compensation coverage at a minimum consistent with statutory requirements, and employer's liability insurance with limits of not less than one million dollars.

d. Comprehensive form premises-operations, explosions and collapse hazard, underground hazard and products completed hazard with limits of not less than three million dollars.

2. The liability insurance policies required by this Section shall be maintained by the Grantee throughout the term of this franchise, and such other period of time during which the Grantee is operating without a franchise, and such other period of time during which the Grantee is operating without a franchise, or is engaged in the removal of its telecommunications Facilities. Each such insurance policy shall contain an endorsement substantially similar to the following:

    a. "It is hereby understood and agreed that the City of Stayton, its elected officials, officers and employees are additional named insureds with respect to claims arising out of or in connection with the franchise granted by the City of Stayton Cooperative Telephone Company. This policy may not be canceled nor the intention not to renew be stated until Grantee or its insurer shall have endeavored to provide 30 days written notice, by registered mail, of such intent to cancel or not to renew."
    b. Such endorsement shall be subject to the terms and conditions of the liability insurance policy.

3. Prior to said cancellation, the Grantee shall obtain and furnish to the City evidence that the Grantee otherwise meets the requirements of this section.

4. As an alternative to the insurance requirements contained herein, the Grantee may provide evidence of self-insurance subject to review and acceptance by the City.

5. **Performance Security.** Before this franchise is effective and as necessary thereafter, the Grantee shall provide a performance bond, in a form acceptable to the City in the amount of $15,000, as security for the full and complete performance of the franchise herein granted. Such security shall include any costs, expenses, damages or loss the City pays or incurs because of any failure attributable to the Grantee to comply with the codes, ordinances, rules, regulations, or permits of the City. This obligation is in addition to any performance security required for construction of Facilities.

4.16.180 City's Right to Revoke Franchise

1. **City's Right to Revoke.** In addition to all other rights which City has pursuant to law or equity, City reserves the right to revoke, terminate, or cancel this franchise, and all rights and privileges pertaining thereto, in the event that:

    a. Grantee repeatedly violates any material provision of this franchise. The following provisions are deemed to be material to the performance of the franchise:
        i. Emergency removal;

ii. Excavation and restoration;
iii. Relocation;
iv. Franchise fee;
v. Insurance;
vi. Assignment or sale of franchise.

b. Grantee practices any fraud upon City.
c. Grantee becomes insolvent, unable, or unwilling to pay its debts, or is adjudged bankrupt.
d. Grantee misrepresents a material fact in the application for or negotiation of, or renegotiation of, or renewal of, the franchise.
e. Grantee deliberately fails to operate the system without prior approval of City or without just cause.

2. **Revocation Procedures.**
   a. City shall provide Grantee with a written notice of the cause of termination and its intention to terminate or revoke the franchise and shall allow Grantee a minimum of ninety (90) days after service of the notice in which to correct the violation. If at the end of this period, Grantee has not corrected the matter which provides grounds for termination, the franchise may, at the option of City, become null and void and Grantee shall thereafter be entitled to none of the privileges or rights herein extended. Grantee shall thereupon cease and desist from any activity within the City limits of City, provided, however, that City may at its option pursue any other and different or additional remedy provided to it by law or in equity.

   b. Grantee shall be afforded due process and provided with an opportunity to be heard at a public hearing before the City Council prior to the termination of the franchise. The City council shall hear any Persons interested therein, and shall have the discretion to determine whether or not any failure, refusal, or neglect by Grantee has occurred.

   c. Any revocation of this franchise shall be by formal action of the City Council, by ordinance.

4.16.190 General Provisions

1. **Assignment or Sale of Franchise or Facilities.** Grantee shall not transfer or assign any rights under this franchise to another Person or entity, except transfers and assignments by operation of law, unless City shall first give its approval in writing, which approval shall not be unreasonably withheld or delayed, provided, however, inclusion of this franchise as property subject to the lien of Grantee's mortgage(s) shall not constitute a transfer or assignment. Assignment or transfer is subject at a minimum to the following requirements:

   a. Grantee and the proposed assignee or transferee of this franchise or system shall agree, in writing, to assume and abide by all of the provisions of the franchise.

b. Any approval by the Franchising Authority of transfer of ownership or control of the telephone system shall be contingent upon the satisfactory curing by the Grantee of any known deficiencies in performance under the Franchise existing at the time of transfer.

2. **Remedies Not Exclusive: When Requirement Waived.** All remedies and penalties under this ordinance, not including termination of the franchise, are cumulative, and the recover or enforcement of one is not a bar to the recovery or enforcement of any other such remedy or penalty. The remedies and penalties contained in this ordinance, including termination of the franchise, are not exclusive, and City reserves the right to enforce the penal provisions of any ordinance or resolution and to avail itself of any and all remedies available at law or in equity. Failure to enforce shall not be construed as a waiver of a breach of any term, condition, or obligation imposed upon Grantee by, or pursuant to, this ordinance. A specific waiver of a particular breach of any term, condition, or obligation imposed upon Grantee by, or pursuant to, this ordinance or acceptance of any payment due shall not be a waiver of any other or subsequent or future breach of the same or any other term, condition, or obligation itself.

3. **General Indemnification.** Grantee shall defend, indemnify and hold the City and its officers, employees, agents and representatives harmless from and against any and all damages, losses, and expenses, including reasonable attorney's fees and costs of suit or defense, arising out of, resulting from, or alleging to arise out of or result from the negligent, careless or wrongful acts, omissions, failures to act, or misconduct of the Grantee or its affiliates, officers, employees, agents, contractors, or subcontractors in the construction, operation, maintenance, repair, or removal of its telecommunications Facilities, and in providing or offering telecommunications services over the Facilities or network, whether such acts or omissions are authorized, allowed or prohibited by this franchise.

4. **Changes in Law.** This franchise contemplates a franchise fee payment based on Grantee's "gross local exchange revenues" as that term is currently defined in Oregon statute. In the event of changes in law during the term of this franchise which relate to any of the provisions of this agreement, the parties agree to re-open this agreement and proceed in good faith to negotiate provisions to implement the change in the applicable law.

5. **Foreclosure, Receivership, and Abandonment.**
   a. Upon the foreclosure or other judicial sale of the system, Grantee shall notify City of such fact and such notification shall be treated as a notification that a change in control of Grantee has taken place, and the provisions of this franchise governing the consent to transfer or change ownership shall apply without regard to how such transfer or change in ownership occurred.

   b. City shall have the right to cancel or terminate this franchise subject to any applicable provisions of Oregon or Federal law, including the Bankruptcy Act, one hundred and twenty (120) days after the appointment of a debtor-in-possession, receiver or trustee to take over and conduct the business of Grantee, whether in receivership, reorganization,

bankruptcy, or other action or proceeding, unless such receivership or trusteeship shall have been vacated prior to the expiration of said period, or unless:

i. Within one hundred and twenty (120) days after election or appointment such receiver or trustee shall have fully complied with all the provisions of this franchise and remedied all defaults thereunder; and,
ii. Such receiver or trustee, within said one hundred and twenty (120) days, shall have executed an agreement, duly approved by the court having jurisdiction in the premises, whereby such receiver or trustee assumes and agrees to be bound by each and every provision of this franchise.

6. **Abandonment of Service.** Grantee shall not abandon, discontinue or cease providing service except as authorized under the Oregon Administrative Rules at Chapter 860, Division 32.

7. **Compliance with Laws, Rules, and Regulations.** At all times during the term of this franchise, Grantee shall comply with all applicable laws, ordinances, municipal codes, rules, and regulations of the United States of America, the State of Oregon, Marion County, and the City of Stayton including all agencies and subdivisions thereof. Grantee shall be subject to the lawful exercise of the police power of City and to such reasonable regulations as City may from time to time hereafter by resolution or ordinance provide. If at any time during the term of this franchise, City implements a generic "right of Way Management Ordinance" or similarly titled document which may apply to all of City's utility franchises, Grantee agrees to abide by such ordinance; provided that any specific conflicts between such an ordinance and this franchise ordinance shall be mutually reviewed and resolved by City and Grantee. No provision of this franchise shall be construed as a waiver of local, State, or Federal law, or as a limit of liability.

8. **Rules of Construction.** This ordinance shall be construed liberally in order to effectuate its purposes. Unless otherwise specifically prescribed in this ordinance, the following provisions shall govern its interpretation and construction:

a. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include singular number, and words in the singular number include the plural number.
b. Time is of the essence of this ordinance. Grantee shall not be relieved of its obligation to comply promptly with any provision of this ordinance by any failure of City to enforce prompt compliance with any of its provisions.
c. Unless otherwise specified in this ordinance, any action authorized or required to be taken by City may be taken by the City Council or by an official or agent designated by the City Council.
d. Every duty and every act to be performed by either party imposes an obligation of good faith on the party to perform such.

9. **Severability and Constitutionality.** If any Section, subsection, sentence, clause, or phrase of this ordinance is for any reason held illegal, invalid, or unconstitutional by the decision of any court

of competent jurisdiction, such decision shall not affect the validity of the remaining positions hereof.

The City Council hereby declares that it would have passed this ordinance and each Section, subsection, sentence, clause, and phrase hereof irrespective of the fact that any one or more Sections, subsections, sentences, clauses, or phrases be declared illegal, invalid, or unconstitutional. The invalidity of any portion of this ordinance shall not abate, reduce, or otherwise affect any other consideration or obligation required of Grantee by any franchise granted hereafter. If, for any reason, the franchise fee or compensation is invalidated or amended by the act of any court or authorized governmental agency, then a reasonable franchise fee or compensation as allowed by such court or authorized governmental agency shall be the franchise fee or compensation charged by this ordinance.

10. **Written Notice.** All notices, reports, or demands required to be given in writing under this franchise shall be deemed to be given when a registered or certified mail receipt is returned indicating delivery, or on the next addressed business day if sent by express mail or overnight air courier to the party to which notice is being given as follows:

If to the City:	City of Stayton 362 N. Third Avenue Stayton, OR 97383 Attn: City Administrator
If to Grantee:	Stayton Cooperative Telephone Company 502 N. Second Avenue P.O. Box 477 Stayton, OR 97383 Attn: President / CEO

Such addresses may be changed by either party upon written notice to the other party given as provided in this Section.

11. **Dispute Resolution.** In the event a dispute arises between the parties, it is agreed that they shall engage in mandatory mediation. The parties shall agree on the selection of a Mediator within ten (10) days' advance written notice from either party and, if not, the Circuit Court Presiding Judge for the Oregon county which would have jurisdiction on the issues shall make the selection. The mediation shall occur within twenty (20) days of the selection of the Mediator. The parties shall at all times perform in good faith and shall make every effort to resolve the dispute in mediation.

12. **Captions.** The paragraph captions and headings in this franchise are for convenience and reference purposes only and shall not affect in any way the meaning of interpretation of this franchise.

13. **Calculation of Time.** Where the performance of doing of any act, duty, matter, payment, or thing is required hereunder and the period of time or duration for the performance or doing thereof is prescribed and fixed herein, the time shall be computed so as to exclude the first and include the last day of the prescribed or fixed period or duration of time unless stipulated otherwise in this agreement. When the last day of the period falls on Saturday, Sunday, or a legal holiday, that day shall be omitted from the computation.

CHAPTER 4.20
NORTHWEST NATURAL GAS FRANCHISE

SECTIONS

4.20.010 DEFINITIONS AND EXPLANATIONS

As used in this Chapter.

1. **"BRIDGE"** includes a structure erected within the City to facilitate the crossing of a river, stream, ditch, ravine or other place, but does not include a culvert.
2. **"CITY"** means the City of Stayton and the areas within its boundaries, including its boundaries as extended in the future.
3. **"CITY FACILITIES"** means City-owned street light poles, lighting fixtures, pipes, mains, service lines, manholes, meters, vaults, cabinets, structures, cable, wire, conduit, or other City-owned structures or equipment located within Rights-of-Way.
4. **"COUNCIL"** means the legislative body of the City.
5. **"FRANCHISE"** means this Franchise ordinance and agreement as approved by the Stayton City Council and accepted by Grantee under Section 22 of this Franchise.
6. **"GAS"** means natural methane-based gas.

7. **"GAS FACILITIES"** means Grantee's gas transmission, storage and distribution facilities, including pipes, pipe lines, mains, laterals, conduits, feeders, regulators, reducing and regulating stations, meters, fixtures, connections and all attachments, appurtenances, and all accessories necessary and incidental thereto located within City properties or within the City limits, whether the facilities are located above or below the ground.
8. **"GAS MAINS"** includes all gas transmission and distribution facilities located on or under any Street, Right-of-Way, Bridge or Public Place within the City.
9. **"GAS UTILITY SYSTEM"** includes all gas transmission and distribution facilities located within the city.
10. **"GRANTEE"** means the corporation referred to in section 4.20.020.
11. **"GROSS REVENUES"** means revenues received from the use of the Gas Utility System within the City less related net uncollectibles. Gross Revenues includes revenues from the use, rental, or lease of the Gas Utility System, except when those revenues have been paid to Grantee by another Franchisee of the City and paid revenues are used in the calculation of the Franchise fee for the operations of the other Franchisee within the City. Gross Revenues do not include proceeds from the sale of bonds, mortgage, or other evidence of indebtedness, securities or stocks, or sales at wholesale by Grantee to any public utility or public agency when the public utility or public agency purchasing the gas is not the ultimate customer. Gross Revenues do not include public purpose charges, provided that such charges or surcharges are required or authorized by federal or state statute, administrative rule, or by tariff approved by the OPUC and raise revenue used solely for a public purpose and not to compensate Grantee for the sale or use of natural gas or for the use, rental, or lease of Grantee's Utility System within the City. Public purpose activities include, but are not limited to, energy efficiency programs, market transformation programs, low-income energy efficiency programs, and carbon offset programs designed to benefit residential and commercial customers within Grantee's service territory in Oregon.
12. **"MAINTENANCE," "MAINTAINING," "MAINTAIN"** means without limitations, relaying, repairing, replacing, relocating, examining, testing, inspecting, removing, digging and excavating, and restoring operations incidental thereto.
13. **"PERSON"** includes an individual, corporation, association, firm, partnership and joint stock company.
14. **"PUBLIC PLACE"** includes any City-owned, park, place or grounds within the City that is open to the public but does not include a Street, Bridge or Right-of-Way, and includes without limitation public squares, fairgrounds and parks.
15. **"PUBLIC UTILITY COMMISSION"** means the Public Utility Commission of the State of Oregon, or its successor agency.
16. **"QUALIFIED CONTRACTOR"** means a Person that is knowledgeable about the construction and operation of a natural gas transmission and distribution system, and must be subject to and comply with the qualifying standards as it relates to the work in question, set forth in 49 CFR Part 192, Subpart N – Qualifications of Pipeline Personnel. Additionally, this Person must adhere to all applicable requirements of NW Natural's

Quality Assurance program and Contractor Management group.

17. **"RIGHT-OF-WAY" or "RIGHTS-OF-WAY"** means the space in, upon, above, or under the public streets, roads, highways, lanes, courts, ways, alleys, boulevards, sidewalks, bicycle lanes, bridges, and places used or intended to be used by the general public for travel as the same now or may hereafter exist, that he City has the right to allow Grantee to use.
18. **"SERVICES"** means the gas transmission, distribution, sales and marketing services provided by Grantee to its customers located within the City. "Services" does not include service provided through or by the use of any equipment, plant or facilities for the transmission of Gas which pass through or over but are not used to provide service in or do not terminated in the City.
19. **"STREET"** includes a street, alley, avenue, road, boulevard, way, lane, court, thoroughfare or public highway within the City, but does not include a Bridge.

As used in the Chapter, the singular number may include the plural and the plural number may include the singular.

4.20.020 RIGHTS GRANTED

Subject to the conditions and reservations contained in this Chapter, the City hereby grants to Northwest Natural Gas Company, a corporation, the right, privilege and Franchise to:

1. Construct, maintain, and operate a Gas Utility System within the City.
2. Install, maintain, operate on and under the Streets, Rights-of-Way and Bridges of the City, facilities for the transmission and distribution of gas to the City and its inhabitants and to other customers and territory beyond the limits of the City; and
3. Transmit, distribute, and sell gas.
4. This Franchise does not authorize Grantee to install or use the Gas Utility System in the Right-of-Way for anything other than the provision of Services. Unless Grantee or its lessee obtains written consent of the City, the Gas Utility System may not be used directly or indirectly for the provision of services not required by Grantee to operate its Gas Utility System. The Gas Utility System may not be placed or operated in any Public Place without separate written consent of the City.

4.20.030 USE OF STREETS, BRIDGES, RIGHTS-OF-WAY, AND PUBLIC PLACES BY GRANTEE

1. Before the Grantee may use or occupy any Street, Bridge, Right-of-Way or Public Place, the Grantee shall first obtain permission from the City to do so and shall comply with any special conditions the City desires to impose on such use or occupation.
2. The compensation paid by the Grantee for this Franchise includes all compensation for the use of Streets, Rights-of-Way and Bridges located within the City as authorized.

4.20.040 DURATION

This Franchise is granted for a period of 10 years from and after the effective date of this ordinance (Ordinance 980, December 17, 2015).

4.20.050 FRANCHISE NON-EXCLUSIVE

This Franchise is not exclusive. This Franchise is intended to convey limited rights and interest only as to those Public Rights-of-Way in which the City has an actual interest. It is not a warranty of title or interest in any Public Right-of-Way. It does not confer rights other than those expressly provided in the grant hereof. It is subject to all deeds, easements, dedications, conditions, covenants, restrictions, encumbrances and claims of title of record that may affect the Right-of-Way. Nothing in this Franchise grants, conveys, creates, or vests in Grantee a real property interest in land, including any fee, leasehold interest, or easement.

1. Reservation of City Rights. This Franchise does not limit the City in:
    a. Granting rights, privileges and authority to other Persons similar to or different from those granted by this ordinance.
    b. Constructing, installing, maintaining or operating any City-owned public utility.

4.20.060 PUBLIC WORKS AND IMPROVEMENTS NOT AFFECTED BY FRANCHISE

The City reserves the right to:

1. Construct, install, maintain and operate any public improvement, work or facility;
2. Do any work that the City may find desirable on, over or under any Street, Bridge, Right-of-Way or Public Place.
3. Vacate, alter or close any Street, Bridge, Right-of-Way or Public Place. However, if the City vacates any Street, Bridge, Right-of-Way or Public Place for the convenience or benefit of any Person or governmental agency or instrumentality, the City will make available to Grantee an alternative Right-of-Way for the location of its facilities. In such an event, Grantee's right under this Franchise is preserved as to any of its facilities then existing in such Street, Bridge, or Public Place.
    a. Whenever the City shall excavate or perform any work in any of the present and future Streets, Rights-of-Way, and Public Places of the City, or shall contract, or issue permits, for such excavation or work where such excavation or work may disturb Grantee's Gas Mains, pipes and appurtenances, the City shall, in writing, notify Grantee sufficiently in advance of such contemplated excavation or work to enable Grantee to take such measures as may be deemed necessary to protect such Gas mains, pipes and appurtenances from damage and possible inconvenience or injury to the public. In any such case, the Grantee, upon request, shall furnish maps or drawings to the City or contractor, as the case may be, showing the locations of all its structures in the area involved in such proposed excavation or

other work. The City will treat any such map or drawings as confidential, subject to the provisions of state law and the Oregon Public Records Law.

4. Abate any nuisance or dangerous condition.

5. Control or prevent the use of any Public Place by Grantee and require payment of additional compensation for the use of the Public Place in any amount that the City finds to be reasonable. Any portion of the Gas Utility System located within a Public Place on this Franchise's effective date or located within an easement within a Public Place as of this Franchise's effective date may be maintained, repaired, or replaced without additional charge, subject to any special conditions imposed by the City on Grantee at the time the City permitted Grantee to place facilities in the Public Place.

6. Exercise any non-regulatory power that the City currently holds, or may hereafter be authorized or granted by the laws of the State of Oregon or the City Charter.

7. In addition to the reservations contained in this Franchise and existing applicable ordinances, adopt such additional generally applicable regulations of the construction, maintenance, and operation of Grantee's Gas Utility System as the City finds necessary in the exercise of its police powers, or for the orderly development of the City (including but not limited to zoning, land use, historic preservation ordinances, standard specifications, design standards and drawings, and other safety or construction standards, and other applicable requirements), or for the protection of City Facilities. These regulations are subject to any superseding provisions of state or federal law or regulations and must be in conformance with standard engineering practices. The City may amend and add to these regulations from time to time. The City will make a good faith effort to provide Grantee written notice and opportunity to comment on any proposed new or amended regulations that would affect the construction, Maintenance, and operation of Grantee's Gas Utility System, but the City's failure to provide such notice does not affect Grantee's obligation to comply with these regulations nor is it a material breach of the Franchise. Grantee must promptly comply with these regulations.

4.20.070 CONTINUOUS SERVICE

The Grantee shall maintain and operate an adequate system for the distribution of gas in the City. The Grantee shall use due diligence to maintain continuous and uninterrupted 24-hour a day service which shall at all times conform at least to the standards common in the business and to the standards adopted by state authorities and to standards of the City which are not in conflict with those adopted by the state authorities. Under no circumstances shall the Grantee be liable for an interruption or failure of service cause by act of God, unavoidable accident or other circumstances beyond the control of the Grantee through no fault of its own.

4.20.080 SAFETY STANDARDS AND WORK SPECIFICATIONS

1. Grantee must maintain its facilities in a safe, substantial and workmanlike manner.

2. Grantee must construct and maintain the Gas Utility System in a manner that does not injure the Right-of-Way, City Facilities, City property or the property belonging to another Person within the City Limits. Grantee must, at its own expense, repair, renew,

change, and improve the Gas Utility System from time to time as may be necessary to accomplish this purpose.

3. If the Public Utility Commission abandons its jurisdiction over or regulation of rates and/or standards of service required by Grantee, the City reserves the right to exercise this jurisdiction if so allowed by state law, and Grantee agrees to comply with all reasonable ordinances, rules, and regulations made by the City in the exercise of this jurisdiction or right of regulation.
4. For the purpose of carrying out the provisions of this section, the City may provide such specifications relating thereto as may be necessary or convenient for public safety or the orderly development of the City. The City may amend and add to such specifications from time to time.

4.20.090 CONTROL OF CONSTRUCTION

The Grantee shall file with the City maps showing the location of any construction, extension or relocation of its Gas Mains in the Streets and Rights-of-Way of the City and shall obtain from the City approval of the location and plans prior to commencement of work. The City may require the Grantee to obtain a permit before commencing the construction, extension or relocation of any of its Gas Mains.

4.20.100 STREET EXCAVATIONS AND RESTORATIONS

1. Subject to provisions of this chapter, the Grantee may make necessary excavations for the purpose of constructing, installing, maintaining and operating its facilities. Except in emergencies, and in the performance of routine service connections and ordinary maintenance, on private property, prior to making an excavation in the traveled portion of any Street, Right-of-Way, Bridge or Public Place, and, when required by the City, in any untraveled portion of any Street, Rights-of-Way, Bridge, or any Public Place, the Grantee shall obtain from the City approval of the proposed excavation and of its location. Grantee shall give notice to the City by telephone, electronic data transmittal or other appropriate means prior to the commencement of service or maintenance of work and as soon as is practicable after the commencement of work performed under emergency conditions.
2. When any excavation is made by the Grantee, the Grantee shall promptly restore the affected portion of the Street, Rights-of-Way, Bridge or Public Place to the same condition in which it was prior to the excavation. The restoration shall be in compliance with specifications, requirements and regulations of the City in effect at the time of such restoration. If the Grantee fails to restore promptly the affected portion of a Street, Rights-of-Way, Bridge or Public Place to the same condition in which it was prior to the excavation, the City may make the restoration, and the cost thereof shall be paid by the Grantee.

4.20.110 LOCATION AND RELOCATION OF FACILITIES

1. All facilities of the Grantee shall be placed so that they do not interfere unreasonably with the use by the City and the public of the Streets, Rights-of-Way, Bridges and Public Places and in accordance with any specifications adopted by the City governing the location of facilities.
2. The City may require, in the public interest, the removal or relocation of facilities maintained by the Grantee in the Streets or Rights-of-Way of the City, and the Grantee shall remove and relocate such facilities within a reasonable time after receiving notice to do so from the City. The Grantee must pay the cost of such removal or relocation of its facilities, except when such removal or relocation is required for the convenience or benefit of any Person, governmental agency or instrumentality other than the City, in which case Grantee is entitled to reimbursement for the reasonable cost thereof from such Person, agency or instrumentality. The City shall provide the Grantee with timely notice of any anticipated requirement to remove or relocate its facilities and shall cooperate with the Grantee in the matter of assigning or allocating the costs or removal or relocation.

4.20.120 COMPENSATION

1. **Amount.** As compensation for the Franchise granted by this chapter for Grantee's entry upon and deployment within the Right-of-Way, the Grantee shall pay the City an amount equal to 5% of the Gross Revenue. This section shall not prevent the City from requiring additional compensation as a condition for the use of any Public Place. The Franchise Fee is not in lieu of or a waiver of any ad valorem property tax which the City may now or hereafter be entitled to, or to participate in, or to levy upon the property of Grantee.
2. **Renegotiation.** If any applicable state law limitation on the City's authority to collect Franchise fees later authorizes the City to collect a Franchise fee greater than 5% of Grantee's Gross Revenues, then upon 30 days' notice from the City, Grantee agrees to engage in good faith negotiations to modify this up to applicable state law limitations. If the parties are unable to agree to a modification of this section to increase the Franchise fee above 5% within 90 days of sending of the notice requesting the modification, or such longer time as may be agreed to by the parties, the City may, in its sole discretion, give written notice to Grantee that the duration of this Franchise will be changed to 5 years or, if 5 years or less remain in the term of the Franchise, the Franchise will expire one year from the date of the notice.
3. **Due Date.** The compensation required by this section is due for each quarter ending March 31, June 30, September 30, and December 31, or fraction thereof, within 45 days after the close of such quarter, or fraction thereof. Within 45 days after the termination of this Franchise, compensation shall be paid for the period elapsing since the close of the last calendar year for which compensation has been paid.
4. **Late Payment.** Any payment not made when due, including late payments and any underpayment, accrues interest at 9% per annum until paid. If any payment becomes 90 days in arrears, an additional 10% penalty will be applied to the amount past due.
5. **Report.** The Grantee shall furnish to the City with each payment of compensation

required by this section a statement showing the amount of Gross Revenue of the Grantee within the City for the period covered by the payment computed on the basis set out in subsection 1 of this section. The compensation for the period covered by the statement must be computed on the basis of the Gross Revenue so reported. If the Grantee fails to pay the entire amount of compensation due the City through error or otherwise, Grantee must pay the difference due to City within 30 days from discovery of the error or determination of the correct amount. Any overpayment to the City through error or otherwise shall be offset against the next payment due from the Grantee.

6. **Acceptance of Payment.** Acceptance by the City of any payment due under this section is not a waiver by the City of any breach of this Franchise occurring prior thereto, nor does the City's acceptance of any such payments preclude the City from later establishing that a larger amount was actually due, or from collecting any balance due to the City.
7. **New Business.** The City specifically reserves the right to impose a fee or tax, as allowed by generally applicable law, on Grantee's operation of any new business undertaking within the City. The City may otherwise separately regulate and obtain compensation for any other use of the City's Rights-of-Way than those specifically authorized herein.
8. **Additional Taxes.** Payment of the Franchise fee under this Section does not exempt Grantee from the payment of any generally applicable license, permit fee or other generally applicable fee, tax or charge on the business, occupation, property or income of Grantee that may be now or hereafter imposed, or from the payment of any reimbursement or indemnity to the City. The City reserves the right to impose and collect any privilege tax in addition to the Franchise fee set forth in this Franchise to the extent permitted by state and federal law.

4.20.130 BOOKS OF ACCOUNT AND REPORTS

1. The Grantee must keep accurate books of account at an office in Oregon for the purpose of determining the amounts due to the City under section 4.20.120. The City may inspect the books of account at any time during business hours and may audit the books from time to time. All amounts of Franchise fees paid by Grantee are subject to audit or financial review by the City, provided the City may audit only those payments that occurred or should have occurred during a period of thirty-six (36) months prior to the date the City notifies the Grantee of its intent to perform an audit or financial review. The Council may require periodic reports from the Grantee relating to its operations and revenues within the City.
2. The City may cause an audit or financial review of the Franchise fees paid by Grantee. The City will pay the cost of any such audit or financial review, unless the results of any such audit or financial review reveal an underpayment of more than 5% of the Franchise fee for the period audited or reviewed. In the case of such an underpayment, Grantee must reimburse the City for the full cost of such audit or financial review, up to the amount of such underpayment. In the case of any underpayment, Grantee must pay the City the difference due within 30 days of discovery of the error or determination of the correct amount, including any interest and/or penalties due as set forth in this Franchise. Any overpayment to the City through error or otherwise will be offset against the next payment. In order to conduct such audits and financial reviews, Grantee must make

available for review to the City's authorized representatives all necessary books of accounts and records at no cost to the City, provided the City gives at least 30 days' written notice. Notwithstanding the foregoing, the Grantee will not provide the City with records containing customer information that identifies or can be attributed to a specific customer, without a written legal opinion by the City that such records will not be subject to public disclosure under state law, and that the City will inform NW Natural and oppose their disclosure should a public disclosure request be made.

4.20.140 SUPPLYING MAPS UPON REQUEST

The Grantee shall maintain on file, at an office in Oregon, maps and operational data pertaining to its operations in the City. The City may inspect the maps and data at any time during business hours. Upon request of the City, the Grantee shall furnish to the City, without charge and on a current basis, maps showing the location of the Gas Mains of the Grantee in the City.

4.20.150 INDEMNIFICATION

1. The Grantee agrees to indemnify, defend and save harmless the City and its officers, agents and employees from any and all loss, cost and expense arising from damage to property or injury to, or death of, Persons, to the extent caused by any wrongful or negligent act or omission of the Grantee, its agents or employees in exercising the rights, privileges and Franchise hereby granted. The costs and expenses include court and appeal costs and reasonable attorney fees or expenses. The duty to defend does not extend to any gross negligence or willful misconduct on the part of the City, its officers, agents or employees.
2. The City must provide Grantee with prompt notice of any such claim, which Grantee must defend at Grantee's sole cost and expense. Grantee shall not settle or compromise any such claim without the prior written approval of the City. Grantee and its agents, contractors, and others must consult and cooperate with the City while Grantee is conducting its defense. The City may, at its own cost, defend or participate in the defense of a claim.

4.20.160 ASSIGNMENT OF FRANCHISE

This Franchise binds and benefits the successors, legal representatives and assigns of the Grantee. No assignment of the Franchise is effective without the written approval of the Council of the City of Stayton. The Council may condition its approval upon a reasonable adjustment to the rate of compensation.

4.20.170 TERMINATION OF FRANCHISE FOR CAUSE AND REMEDIES

1. The City may terminate this Franchise upon the willful failure of the Grantee to perform promptly and completely each and every material term, condition or obligation imposed upon it under or pursuant to this Chapter. The termination is subject to Grantee's right to a court review of the reasonableness of such action. The City will provide the Grantee written notice of any such failure and the Grantee has 60 days from the sending of such

notice to cure the failure, or if the failure cannot reasonably be cured within 60 days, to commence and diligently pursue curing the failure.

2. **Additional Remedies.** In addition to any other rights set out in this Franchise and the Stayton City Municipal Code, the City reserves the right at its sole option to establish a lesser sanction that may include imposing a fine of not more than $500 for each offense. A separate and distinct offense is committed each day on which a violation occurs or continues.
3. **Assessment of Remedies.** When determining the penalty amount described above, City may take into consideration the nature, circumstances, extent, and gravity of the violation as reflected by one or more of the following factors. Whether:
    a. The misconduct was egregious.
    b. Substantial harm resulted.
    c. The violation was intentional.
    d. There is a history of prior violations of the same or other requirements.
    e. There is a history of overall compliance.
    f. The violation was voluntarily disclosed, admitted or cured.
4. **Notice and Opportunity to Cure.** The City must give Grantee 60 days' prior written notice of its intent to exercise its rights under this section, stating the reasons for declaring a termination. If Grantee cures the stated reason within the 60 day notice period, or if Grantee initiates efforts to remedy the stated reason and, to the City's satisfaction, the efforts continue in good faith, the City will not exercise its right to terminate the Franchise or seek other remedies. If Grantee fails to cure the stated reason within the 60 day notice period, or if Grantee does not undertake and/or maintain efforts to remedy the stated reason to the City's satisfaction, the City may impose any or all of the remedies available under this Section.

4.20.180 REMEDIES NOT EXCLUSIVE, WHEN REQUIREMENT WAIVED

All remedies and penalties under this Chapter, including termination of the Franchise, are cumulative, and the recovery or enforcement of one is not a bar to the recovery or enforcement of any other such remedy of penalty. The remedies and penalties contained in this Chapter, including termination of the Franchise, are not exclusive and the City reserves the right to enforce the penal provisions of any ordinance or resolution and to avail itself of any and all remedies available at law or in equity. Failure to enforce shall not be construed as a waiver of a breach of any term, condition or obligation imposed upon the Grantee by or pursuant to this Chapter. A specific waiver of a particular breach of any term, condition or obligation imposed upon the Grantee by or pursuant to this Chapter shall not be a waiver of any other or subsequent or future breach of the same or of any other term, condition or obligation, or a waiver of the term, condition or obligation itself.

4.20.190 INSURANCE

1. Throughout the term of this Franchise, Grantee must maintain general liability and property damage insurance, and it must furnish the City with Certificates of Insurance in a form acceptable to the City, with the following limits and coverages:
    a. Comprehensive general liability insurance with limits not less than:
        i. One million dollars for bodily injury or death to each Person; and
        ii. One million dollars for property damage resulting from any one accident; and,
        iii. Three million dollars for all other types of liability.
        iv. Automobile liability for owned, non-owned, and hired vehicles with a limit of one million dollars for each Person and a combined limit of three million dollars for each accident.
        v. Workers' compensation coverage at a minimum consistent with state law, and employer's liability insurance with limits of not less than one million dollars.
2. The insurance policies may provide for a self-retention or deductibles in reasonable amounts, provided that any self-retention or deductibles do not in any way limit Grantee's liability to the City. The insurance limits are subject to statutory changes as to increases in the maximum limits of liability imposed on State of Oregon municipalities during the term of this Franchise.
3. The insurance is without prejudice to coverage otherwise existing and must name as additional insureds the City, its elected and appointed officials, officers, agents, employees, and volunteers. Notwithstanding the naming of additional insureds, the insurance must protect each insured in the same manner as though a separate policy had been issued to each, but nothing in this subsection operates to increase the insurer's liability as set forth elsewhere in the policy beyond the amount or amounts for which the insurer would have been liable if only one person or interest had been named as insured. The coverage must apply as to claims between insureds on the policy.
4. The insurance must provide that it may not be canceled or materially altered without giving 30 days' prior written notice to the City. If the insurance is canceled or materially altered within the term of this Franchise, Grantee must provide a replacement policy with the same terms as required by this Franchise. Grantee must maintain continuous uninterrupted coverage, in the terms and amounts required, upon and after the effective date of this Franchise.
5. As an alternative to the coverage listed above, the Grantee may provide proof of and keep in force self-insurance, or a self-insured retention plus insurance, equivalent to the coverage required above.

4.20.200 CONFIDENTIALITY

When requested by Grantee, and subject to the provisions of state law and the Oregon Public Records Law, the City will treat as confidential any public record or information provided by Grantee and designated by Grantee as confidential.

4.20.210 MISCELLANEOUS PROVISIONS

1. **Waiver of Breach.** The waiver by either party of any breach or violation of any provision of this Franchise is not a waiver or a continuing waiver of any subsequent breach or violation of the same or any other provision of this Franchise.
2. **Severability of Provisions.** If any one or more of the provisions of this Franchise is held by a court of competent jurisdiction to be invalid or unenforceable or pre-empted by federal or state laws or regulations, such provision(s) are invalid, unenforceable or preempted only to the extend required by law, are deemed severable from the remaining provisions of this Franchise, and do not affect the legality, validity, or constitutionality of the remaining portions of this Franchise. IN the event such federal or state law, rule, or regulation is subsequently repealed, rescinded, amended or otherwise changed so that the provision hereof that had been preempted is no longer preempted, such provision shall thereupon return to full force and effect, and shall thereafter be binding, without the requirement of further action on the part of either party.
3. **Governing Law and Choice of Forum.** This Franchise is governed and construed by and in accordance with the laws of the State of Oregon without reference to its conflicts of law principles. If a party brings suit to this Franchise, the parties agree that trial of such action will be vested exclusively in the state courts of Oregon, County of Marion, or in the United States District Court for the District of Oregon.
4. **Representations and Warranties.** Each of the parties to this Franchise represents and warrants that it has the full right, power, legal capacity, and authority to enter into and perform the parties' respective obligations hereunder and that such obligations shall be binding upon such party without the requirement of the approval or consent of any other Person or entity in connection herewith.
5. **No Third-Party Beneficiaries.** Nothing in this Franchise shall be construed or applied to create rights in or grant remedies to any third party as a beneficiary of this Franchise or any duty or obligation established in this Franchise.
6. **Independent Contractor Status.** When performing under this Franchise, Grantee is an independent contractor and not an agent, employee or representative of the City in the performance of work pursuant to this Franchise. No term or provision of this Franchise, or act of the Grantee or its agents, shall be construed as changing that status.
7. **Amendment of Franchise.** This Franchise may not be amended, except pursuant to a written instrument signed by Grantee and approved by the Stayton City Council.
8. **No Representations.** There are no representations, agreements, or understandings (whether oral or written) between or among the parties relating to the subject matter of this Franchise that are not fully expressed herein.

9. **Damage to Grantee's Facilities.** Unless directly and proximately caused by negligent, willful, intentional, or malicious acts by the City, the City is not liable for any damage to or loss of all or any portion of the Gas Utility System within the Rights-of-Way of the City as a result of or in connection with any public works, public improvement, construction, excavation, grading, filling, or work of any kind in the Rights-of-Way by or on behalf of the City, or for any consequential losses resulting directly or indirectly therefrom.

10. **Notices.**

    a. Manner. All notices that shall or may be given pursuant to the Franchise shall be in writing and delivered personally or transmitted (a) through the United States mail, by registered or certified mail, postage prepaid; (b) by means of prepaid overnight delivery service; or (c) email transmission, if a hard cop of the same is followed by delivery through the United States mail or by overnight delivery service as just described and there is written confirmation of the email, addressed as follows:

    If to the City: City of Stayton
    362 N. Third Avenue
    Stayton, Oregon 97383
    Attention: City Administrator

    If to the Grantee: NW Natural
    220 NW Second Avenue
    Portland, Oregon 97209
    Attention: Franchise Manager

    b. Date of Notices: Changing Notice Address. Notices shall be deemed effective upon receipt in the case of personal delivery, three (3) days after deposit in the mail, or on the business day after in the case of email or overnight delivery. Either party may from time to time designate other addresses for providing notice, if the change of address is provided in writing and delivered in the manner set forth above.

11. **City Approval.** In all instances in this Agreement in which the Grantee must obtain "City approval" before taking an action, that approval may only be given by the City Administrator or its designee.

4.20.220 ACCEPTANCE

The Grantee must, within 30 days from the date this ordinance takes effect, file with the City its written unconditional acceptance of this Franchise, and if the Grantee fails to do so, this ordinance is void.

4.20.230 DISPUTE RESOLUTION

In the event a dispute arises regarding the terms of this Agreement, the parties agree to first attempt a resolution by mandatory mediation. Either party may initiate the mediation process by sending the other party a "Notice of Request to Mediate" and briefly describing the disputed Agreement term. The parties will then select a mutually agreeable mediator within 30 days. If the matter is not resolved by mediated settlement within six months from the sending of the "Notice of Request to Mediate," then the parties agree to submit the matter to binding arbitration. The parties will mutually agree upon an arbitration service. Each party will be responsible for its own costs and attorney fees related to any mediation, arbitration or other dispute resolution.

TITLE 5

BUSINESS LICENSES, PERMITS, AND REGULATIONS

CHAPTERS

CHAPTER 5.04

PURPOSE AND DEFINITIONS

SECTIONS

5.04.010 PURPOSE

The purpose of Title 5 is to protect the general health, safety and welfare, by providing for the regulation of those businesses designated in Section 5.04.020 and for the recovery of expenses incurred in issuing licenses.

5.04.020 DEFINITIONS

For the purposes of this Title, the following words and phrases mean:

1. **ADMINISTRATOR**: City Administrator or designate
2. [repealed] (Ord. 935, July 01, 2011)
3. **AUCTION**: A method of public sale whereby the object for sale is secured by highest bidder.
4. [repealed] (Ord. 935, July 01, 2011)
5. **CARNIVAL, AMUSEMENT PARK, AMUSEMENT CONCESSIONAIRE**: An amusement enterprise which may consist of sideshows, vaudeville, games of chance, merry-go-round, and other rides and food concessions.
6. **CIVIC ORGANIZATION:** A non-profit organization assembled for the purpose of advancing the economic, educational, industrial, professional, cultural, religious, and/or civic welfare of the local area. (Ord. 935, July 01, 2011)
7. **COLLECTIBLE:** Printed material the rarity or excellence of which makes it worth collecting. (Ord. 935, July 01, 2011)
8. **DROP BOX:** A secure container that resembles a Post Office street drop box that is used to deposit excess pharmaceuticals. The box must have the ability for the customer to deposit the pharmaceutical item into the box but may not retrieve the item back out of it.
9. **EDUCATIONAL INSTITUTION:** Any local institution of learning, public or private, or associated organizations or local service clubs assembled for the purpose of advancing the welfare of the institution and its student body.

10. **EMPLOYEE**: A person for hire, having no proprietary interest in the employer's enterprise/activity.

11. **EMPLOYER**: A person who employs the services of others for compensation.

12. **ESTABLISHED BUSINESS**: The sale of goods, wares, or merchandise, or the rendering or offering to render services, professional or otherwise, to the public generally; or the engaging in the manufacturing, distribution or leasing of goods, wares or merchandise; or the renting of apartments, hotel rooms, motor courts, trailer camps or cabins, or the engaging in the mercantile, commercial contracting, industrial, manufacturing or construction occupation, carried on for profit from a business firm address within the City. (Ord. 935, July 01, 2011)

13. **GARAGE SALE**: Any sale, displaying of goods for sale, or offer to sell, including, antique, rummage, tailgate, or any other sale of similar nature wherein a majority of the goods consist of used personal property and which takes place at the residence of (one of) the seller(s); provided, however, that such activity shall be exempt from the requirement for a license if it is operated by, or the proceeds go to, a civic organization. (Ord. 935, July 01, 2011)

14. [repealed] (Ord. 935, July 01, 2011)

15. **JUNK**: Includes, but is not limited to, used vehicles, vehicle parts, or abandoned vehicles; used machinery, machinery parts, used iron or other metal, glass, waste material, discarded material or abandoned personal property of any nature, except reconditioned or rebuilt vehicle parts, sold by a wholesale distributor having an established place of business to an established business for resale.

16. **JUNK DEALER**: A person engaged in the business of junk sales, operating or maintaining a junk yard, or a place or building within the City for the storage or dismantling vehicles, devices, or machines, but does not include an establishment conducted solely and exclusively for the sale of used automobiles in condition to be and intended to be licensed and operated. (Ord. 935, July 01, 2011)

17. **LOCAL:** Of or pertaining to the areas within the urban growth boundaries of the cities of Stayton or Sublimity. (Ord. 935, July 01, 2011)

18. **MERCHANT PATROL/PRIVATE SECURITY ENTERPRISES**: Any person engaged in the business of watching, guarding, or protecting any premises, property, or persons; provided, however, that such activity shall be exempt from the requirements of this Title if the individual who has only one employer and is employed to watch, guard, or protect only the employer's premises (property or person). (Ord. 935, July 01, 2011)

19. **MOBILE FOOD UNIT:** Any motor vehicle, trailer, or wagon that is used for the purpose of preparing, processing, or converting food for immediate

consumption as a drive-in, drive-through, curb or walk-up service. A mobile food unit does not include a street vendor's cart or a motor vehicle, trailer, or wagon used exclusively for selling prepackaged food items that are not altered by the vendor (e.g. an ice cream truck) or the delivery of preordered food such as pizza or carryout. (Ord. 1018, May 21, 2018)

20. **NON-PROFIT:** Activities or functions which are tax exempt and not intended to benefit or bring monetary gain to private individuals, but are for the benefit of a civic organization, educational institution, or community.

21. **PAWNBROKER:** Any person engaged in conducting, managing, or carrying on the business of loaning money, for themselves or for another, upon personal property, personal security, pawns, or pledges; or engaged in the business of purchasing articles of personal property and reselling or agreeing to resell such articles to the vendors, or their assigns, at a price agreed upon at or before the time of such purchase. (Ord. 935, July 01, 2011)

22. **PAWNSHOP**: Any room, store, or place in which any pawnbroker business is carried on or conducted.

23. **PERSON**: Individuals, representatives, partnerships, joint ventures, corporations, limited liability corporations, or other entity or group acting in concert with each other. (Ord. 935, July 01, 2011)

24. **PRIVATE DETECTIVE**

    a. A person who accepts employment for hire, fee, or reward to furnish or supply information as to the personal character, actions, or identity of a person or as to the character or kind of business or occupation of a person.

    b. Such activity shall be exempt from this definition if the private investigator is employed exclusively by one employer in connection with a business, or is a detective or officer belonging to the law enforcement agencies of the United States or of any state, county, or City; insurance adjusters licensed by the State are exempt from this definition when the adjuster is operating in the capacity of and for adjusting of insurance for a company licensed by the State.

25. **PROMOTIONAL EVENT:** An out-of-doors activity or series of activities conducted by or sponsored by a business or individual (the promoter) for the purpose of attracting public attention or involvement to promote an activity, organization, or business, including, but not limited to, temporary amusements, features, or structures brought onto the premise such as inflated bouncing structures, horse or carnival rides. Any use of outdoor temporary amusements or carnival rides or devises sponsored by an existing business, at no charge or cost to the public. (Ord. 935, July 01, 2011)

26. **RETAIL PHARMACY:** A retail pharmacy is a business licensed through the State of Oregon to sell and dispense drugs/pharmaceuticals. (Ord. 1021, May 21, 2018)

27. **SECONDHAND DEALER**: A person who is engaged in the established or itinerant business of selling secondhand tools, wares, merchandise, or goods for private gain, or conducts auctions (used/new goods), except temporary auctions, garage sales, and sale of books or magazines, or collectibles. (Ord. 668, July 02, 1990; Ord. 680, September 04, 1990)

28. **SOLICITOR:** Any person, representative, or employee of such person who, traveling from place to place, carrying goods, merchandise, or food products to sell, offer to sell, or to take or attempts to take orders for the sale of such goods or services or any type of personal property or service for delivery or performance in the future.

    a. "Solicitor" includes peddler, hawker, huckster, and canvasser, except where such person is eliciting information, not in contemplation of present or future sales.

    b. Such activity shall not include established businesses; vendors of newspapers; wholesalers making deliveries to or taking orders from established businesses; and the delivery of products already purchased. (Ord. 935, July 01, 2011)

29. **WAIVER:** A decision by the City Council to grant, on a case by case basis, a request that enforcement of the licensing or permit regulations provided by this Title be set aside for a certain and specific activity or fund raising event. (Ord. 935, July 01, 2011; Ord. 668, July 02, 1990; Ord. 680, September 04, 1990; Ord. 693, October 07, 1991)

CHAPTER 5.08

BUSINESS LICENSES, PERMITS, REGULATIONS, AND VIOLATIONS

SECTIONS

5.08.010 LICENSE/PERMIT REQUIRED

1. No person shall engage in any of the following businesses or activities within the City limits without first obtaining a license or permit as provided in this Title, except as otherwise exempted herein: (Ord. 935, July 1, 2011) (Ord. 995, March 21, 2016)

    a. Carnival, amusement park, amusement concessionaire;

    b. Junk dealer;

    c. Secondhand Dealer;

    d. Pawn Broker;

    e. Promotional event;

    f. Solicitor;

    g. Marijuana Dispensary (Ord. 987, September 21, 2015); or

    h. Mobile Food Unit. (Ord. 1018, May 21, 2018)

2. The term of a license or permit shall be on a twelve (12) month cycle (commencing on the month of issuance) unless otherwise indicated. (Ord. 668, July 2, 1990)

[repealed section 3] (Ord. 987, September 21, 2015)

5.08.020 APPLICATION FOR LICENSE

Application for all licenses and permits required by this Title shall include information necessary to determine the identity and address of the applicant and of the owner of any enterprise, nature of activity, or device to be licensed, and shall include such other information required by this Title or that accomplishes an appropriate review. The application shall be signed by the applicant. (Ord. 935, July 1, 2011; Ord. 668, July 2, 1990)

5.08.030 APPLICATION REVIEW

1. The Administrator shall refer any license/permit application to any person, department, or agency of the City or any party otherwise deemed appropriate to review the application.
2. In reviewing the qualifications of an applicant, the following shall be considered, when appropriate:
    a. Conformity of the proposed activity or use of device to this Code and with state, and federal law;
    b. Unreasonable dangers to public health, safety, or property which may result from the proposed activity or use of the device or activity;
    c. Past violations of laws or municipal code by the applicant or employees; and
    d. Other considerations as to prior business practices, protection of the public health, safety and welfare, and as otherwise specifically required by this Title. (prior code 3.045)
3. Upon receipt and review of the application by the reviewing party, each shall endorse the application as satisfactory or not satisfactory and return the application to the Administrator, who shall approve the application and issue the license/permit, or deny the application and notify the applicant in writing the reasons for such denial. The notice shall inform the applicant of the provisions of this Chapter providing for appeal to the City Council. (Ord. 935, July 1, 2011; Ord. 668, July 2, 1990)

5.08.040 LICENSE FEES: COMPUTATION AND PAYMENT

1. No license or permit shall be issued until payment of fees, if any, as designated in and in accordance with a resolution to be approved by the City Council.
2. [repealed] (Ord. 935, July 1, 2011)

3. [repealed] (Ord. 935, July 1, 2011)

4. A person engaged in carrying on more than one business enterprise or activity designated in this Title shall pay the license/permit fee required for each business enterprise or activity. (Ord. 935, July 1, 2011; Ord. 668, July 2, 1990)

5.08.050 [repealed] (Ord. 935, July 1, 2011)

5.08.060 LICENSE/PERMIT FEES: COLLECTION COSTS AND ATTORNEY FEES

The City may sue in any court of competent jurisdiction to obtain a judgment and enforce collection thereof by execution for any fee or late charge due but unpaid under this Title. In any such action, the prevailing party is entitled to recover reasonable attorney fees to be set by the court, in addition to its costs and disbursements. (Ord. 935, July 1, 2011; Ord. 668, July 2, 1990)

5.08.070 EXEMPTIONS FROM LICENSE/PERMIT REQUIREMENTS

The following activities, in addition to those activities otherwise specifically exempted in this Title, shall be exempt from licensing:

1. [repealed] (Ord. 935, July 1, 2011)

2. Dance or performance, carnival, amusement park, amusement concessionaire, operated, or conducted by or for the sole benefit of any civic organization. (Ord. 935, July 1, 2011)

3. Person(s) collecting donations of personal property or money for any civic organization or in connection with any recognized, nationally conducted charity or in connection with any local civic activity. (Ord. 935, July 1, 2011)

4. Sidewalk sale, flea market, rummage sale, or other similar activity conducted on an infrequent basis by any group in connection with a civic organization. (Ord. 935, July 1, 2011)

5. Upon receipt of written request, the Administrator may exempt other activities or devices from the licensing provisions of this Title when, in the Administrator's judgment, it does not appear that the purposes of this Title would be served by such licensing. (Ord. 935, July 1, 2011; Ord. 668, July 2, 1990)

5.08.080 LICENSE/PERMIT ISSUANCE: RECORDKEEPING

1. After receipt of reports from all persons, departments, and agencies designated to review an application, the Administrator shall determine whether the applicant qualifies for issuance of a license/permit, in

accordance with the requirements of Section 5.08.130.2. If the applicant so qualifies, upon first payment of the license/permit fee, the Administrator shall issue the license/permit. (Ord. 935, July 1, 2011)

2. Such license/permit shall contain the signature of the Administrator, and shall show the name and address of the licensee, the class of license issued, the kind of goods or services to be provided thereunder, the amount of fee paid, the date of issuance, and the expiration date. In the case of itinerant merchants and solicitors, it shall also bear a photograph of the licensee taken at the time of application. (Ord. 935, July 1, 2011)

3. The Administrator shall keep a record of all licenses/permits issued in accordance with the state public records laws. (Ord. 668, July 2, 1990)

5.08.090 [repealed] (Ord. 935, July 1, 2011)

5.08.100 TRANSFER OR ASSIGNMENT OF LICENSE/PERMIT

1. No license or permit issued under the provisions of this Title shall be used at any time by any person other than the one to whom it was issued, unless duly assigned or transferred as provided herein.

2. Any assignment or transfer of a license or permit shall be invalid unless approved by the Administrator, but if any person sells or transfers the entire enterprise for which such license has been paid, and the transfer is approved, then the purchaser of that enterprise is not required to pay an additional license fee for the balance of the term for which the fee was previously paid. (Ord. 668, July 2, 1990)

5.08.110 DISPLAY OF LICENSE/PERMIT

1. A license or permit issued for an activity at a fixed place of business shall be displayed at all times on the premises where it can be easily read.

2. A license or permit issued for an activity which is not at a fixed place of business shall be displayed at all times by the licensee or permittee and all designated employees while engaged in the activity. Upon request, the licensee or permittee or any designated employee shall show the license or permit to any person with whom the individual is dealing as part of the licensed or permitted activity or to an officer of the City. (Ord. 935, July 1, 2011)

3. [repealed] (Ord. 935, July 1, 2011)

5.08.120 LICENSE/PERMIT RENEWAL: LATE PENALTY

1. The application for renewal of an annual license or permit shall be made to the Administrator prior to the license/permit expiration date.

2. A penalty of twenty-five (25%) percent, of the fee shall be added to the license fee accompanying any late renewal application. (Ord. 935, July 1, 2011; Ord. 668, July 2, 1990)

5.08.130 REVOCATION OR SUSPENSION OF LICENSE/PERMIT

1. Upon determination that a licensed or permitted activity, establishment, or device is in violation of this Code, state, or federal law, the Administrator shall notify the licensee/permittee in writing that the license is to be revoked. The notice shall be mailed (certified mail, return receipt requested) not less than thirty (30) days prior to the effective date of revocation. (Ord. 935, July 1, 2011)

2. Upon determination that a licensed or permitted activity or device presents an immediate danger to the public or property, the Administrator may suspend a license/permit at once. The suspension shall take effect immediately upon notice being received by the licensee/permittee. The Administrator may continue a suspension so long as the reason for the suspension exists or until other disposition is made by the City Council.

3. Notice of revocation or suspension shall be in writing, shall state the reason for revocation or suspension, the effective date thereof, and shall inform the licensee/permittee of appeal rights as provided herein.

4. [repealed] (Ord. 935, July 1, 2011)

5.08.140 APPEALS

1. Any applicant, licensee, or permittee aggrieved by the action of the Administrator in the denial, suspension, or revocation of a permit or license or by the action of the Administrator in the determination of the fee, shall have the right to appeal to the City Council. (Ord. 935, July 1, 2011)

2. If a notice of revocation has been appealed, the revocation shall not take effect until final determination of the appeal by the City Council.

3. Such appeal shall be perfected by filing a written statement with the City Council setting forth fully the grounds for such appeal. The statement shall be filed within fourteen (14) days after notice of the action complained of has been mailed to the applicant. (Ord. 935, July 1, 2011)

4. The City Council shall set a time and place for a hearing on such appeal and notice of the hearing before the Council shall be mailed to the licensee/permittee at the place of business that appears in the City's license/permit records at least ten (10) days prior to the date set for a hearing. (Ord. 935, July 1, 2011)

5. The decision and order of the City Council on such appeal shall be final. (Ord. 668, July 2, 1990)

5.08.150 VIOLATION AND PENALTY

[repealed sections 1 – 5] (Ord. 935, July 1, 2011)

A violation of this Title is punishable by a fine set by Council Resolution. (Ord. 987, September 21, 2015).

CHAPTER 5.12

MARIJUANA FACILITIES

SECTIONS

5.12.010 PURPOSE

1. This Chapter provides regulations that supplement the Oregon Revised Statutes (ORS), and administrative rules of the Oregon Health Authority's Medical Marijuana Program (OHA) and the Oregon Liquor Control Commission (OLCC), for the purpose of protecting the citizens and businesses of Stayton regarding marijuana matters. (Ord. 987, September 21, 2015)

2. Certification and licensing by the State of Oregon is not a guarantee that a marijuana facility is permitted to operate under applicable local municipal regulations. All facilities shall comply with the regulations set forth in this Chapter, Title 17, and other applicable provision of this Code. (Ord. 987, September 21, 2015)

5.12.020 DEFINITIONS

For the purposes of this Chapter, any word or phrase defined by the Oregon Revised Statutes or an administrative rule of the Oregon Health Authority or Oregon Liquor Control Commission and not defined below shall have the same meaning as defined by statute or rule; otherwise, the following words and phrases mean: (Ord. 987, September 21, 2015)

FINANCIAL INTEREST: A financial interest exists when a person, the person's immediate family, or legal entity to which the person is a principal (1) receives or is entitled to receive directly or indirectly any of the profits of the enterprise; (2) rents or leases real property to the operator for use by the business; (3) rents or leases personal property to the operator for a commercially unreasonable rate; or (4) lends or gives money, real property, or personal property to the operator for use in the business. (Ord. 987, September 21, 2015)

HEMP: The plant Cannabis Sativa L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis. (Ord. 1040, October 21, 2019)

INSPECTION, FORMAL: A scheduled inspection of the facilities, its owners, or operators to insure compliance with state and local regulations. This may include but not limited to owner and employee background checks, police reports, product inspection, security inspections, sales tracking procedures, financial, operational and facility information, payroll reports, and interviews with staff. (Ord. 987, September 21, 2015)

INSPECTION, INFORMAL: An unscheduled "walk through" of the facility to ensure compliance and assist with the safety of the public and the facility staff. Informal inspections should not interfere with day to day business unless an immediate issue needs to be addressed. (Ord. 987, September 21, 2015)

MARIJUANA: All parts of the plant *Cannabis sativa L*, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin. It does not include hemp or the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative mixture or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, cake or the sterilized seed of the plant which is incapable of germination. (Ord. 1040, October 21, 2019; Ord. 987, September 21, 2015)

MARIJUANA FACILITY: Any facility or business that dispenses, sells, gives, wholesales, produces, or processes either medical or recreational marijuana pursuant to Oregon Revised Statute. (Ord. 987, September 21, 2015)

MARIJUANA PROCESSING SITE: Location where processing of marijuana occurs. (Ord. 987, September 21, 2015)

MARIJUANA PROCESSOR: A person who processes marijuana. (Ord. 987, September 21, 2015)

MARIJUANA PRODUCER: A person who produces marijuana. (Ord. 987, September 21, 2015)

MARIJUANA RETAILER: A person who sells marijuana items to a consumer. (Ord. 987, September 21, 2015)

MARIJUANA WHOLESALER: A person who provides marijuana items for resale to a retailer. (Ord. 987, September 21, 2015)

MEDICAL MARIJUANA DISPENSARY: A business which sells medical marijuana products. (Ord. 987, September 21, 2015)

OPERATOR: The person who is the proprietor of a facility, whether in the capacity of company principal, owner, lessee, sub-lessee, mortgagee in possession, licensee or any other capacity. If the operator is a corporation, the term operator also includes its officers and each and every member of the corporation's board of directors whose directorship occurs in a period during which the facility is in operation. If the operator is a partnership or limited liability company, the term operator also includes each and every member thereof whose membership occurs in a period during which the facility is in operation. (Ord. 987, September 21, 2015)

PROCESSES: The processing, compounding or conversion of marijuana into marijuana products or marijuana extracts; The processing, compounding, or conversion of marijuana either directly or indirectly by extraction from substances of natural origin or independently by means of chemical syntheses or by a combination of extraction an chemical synthesis; the packaging or repackaging of marijuana items or the labeling or relabeling of any package or container of marijuana items. (Ord. 987, September 21, 2015)

PRODUCES: The manufacture, planting, cultivation, growing, or harvesting of marijuana. (Ord. 987, September 21, 2015)

RETAIL MARIJUANA FACILITY: A business that sells recreational use marijuana products to the consumer. (Ord. 987, September 21, 2015)

5.12.030 LICENSING

1. No person shall establish, maintain or operate a marijuana facility within the City unless a City of Stayton Marijuana Facility license for that use is obtained from the City. The Stayton Police Chief shall issue a Facility License if the applicant fulfills all requirements of this Title. (Ord. 987, September 21, 2015)

2. Each facility must continue to be licensed/registered and in good standing as an Oregon Marijuana Facility pursuant to state law. (Ord. 987, September 21, 2015)

3. No facility or person will be issued a City license without proof of liability insurance for the facility, with coverage of not less than one million dollars per occurrence and two million dollars aggregate. The City may increase this minimum requirement under special circumstances that may cause an increase in risk such as, but not limited to, building location in relation to another business or property. (Ord. 987, September 21, 2015)

4. Facility License Term: Each facility must renew the City of Stayton marijuana business license each year. Facility licenses shall be issued on a calendar year basis for a term of one year or portion thereof beginning upon the date of approval of the original application. All facility licenses shall expire on December 31st of the year issued. If a licensee intends to continue to operate during the following license year, not less than thirty days prior to the license expiration, the licensee

shall complete a license renewal application and pay the annual license fee. A facility's license shall not be sold, assigned, mortgaged or otherwise transferred. (Ord. 987, September 21, 2015)

5. Criminal background checks will be performed by the City on facility operators, entity company principals, employees, volunteers of a facility, or those who have a financial interest in the facility. Criminal background checks will be performed on the applicants in the original application and each renewal application as allowed by Oregon Revised Statute. (Ord. 987, September 21, 2015)

6. Facility License Fee: Upon submission of an original application for a marijuana facility license, the applicant shall submit a non-refundable application background investigation fee and the annual marijuana facility license fee as set by Council resolution. If an applicant applies for a marijuana facility license after July 1st, the annual license fee shall be reduced by one-half for the remaining portion of the first license year. The background investigation fee will not be reduced. The background investigation fee will be set based on the number of employees/staff as a criminal history check will be conducted on each employee. No portion of the license fee or background investigation fee is refundable in the event the operation of the facility is discontinued for any reason. (Ord. 987, September 21, 2015)

7. The facility owner/operator shall notify the City and provide information for any new employees or volunteers throughout the year. A background investigative fee will be collected on each new employee or volunteer. (Ord. 987, September 21, 2015)

8. The application for a license must include the information necessary for background checks of a criminal record of any and all owner(s), manager(s), operator(s), employee(s), agent(s), or volunteer(s). The City of Stayton will conduct all necessary background checks prior to issuing a facility license. (Ord. 987, September 21, 2015)

9. The City shall deny a license if any facility operators, company principals, employees, volunteers of a facility, or those who have a financial interest in the facility do not meet the requirements set by the State of Oregon or if they meet the requirements for denial. In addition, the person may not have been convicted for the following crimes in the past 5 years: (Ord. 987, September 21, 2015)

    a. Felony Person Crimes
    b. Misdemeanors related to drug charges
    c. Driving Under the Influence of Intoxicants
    d. Crimes of Fraud and Deceit

10. Once the facility is licensed, the licensee must notify the City, remit the appropriate investigation fee, and submit necessary information for background

checks of a criminal record of any new owner, manager, operator, employee, agent, or volunteer. Failing to update the City accordingly may result in a fine and/or revocation of the license. (Ord. 987, September 21, 2015)

11. The City may deny an initial application or renewal license due to background checks of owners and employees, et.al, failure to comply with State laws and regulations, previous violations of the SMC 8.20 Chronic Nuisance Property, or failure to comply with SMC Title 17. (Ord. 987, September 21, 2015)

12. If the City chooses to deny the approval of a facility license, the applicant will be sent a certified letter of denial stating the reason for the denial. Denial of an initial license application may be appealed to the Administrator within 30 days of receiving the reason for denial. The Administrator's decision is the City's final administrative decision. (Ord. 987, September 21, 2015)

13. The marijuana facility will be given 60 days from the date of denial to correct the reason for the initial application denial if correction is possible. (Ord. 987, September 21, 2015)

14. The license authorized by the City shall be displayed in a manner visible to persons conducting business in the facility. (Ord. 987, September 21, 2015)

15. Each facility must allow reasonable scheduled formal inspections during the annual license renewal process or for reported issues. Without reducing or waiving any provisions of this Chapter, the Stayton Police Department shall have the same access to the facility, its records, and its operation as allowed to State inspectors. Denial or interference with access shall be grounds for revocation or suspension of the facility license. (Ord. 987, September 21, 2015)

16. Each facility must allow for reasonable informal inspections at any time. (Ord. 987, September 21, 2015)

17. Each facility must comply with all State or local laws and regulations including, but not limited to, building and fire codes, including payment of all fines, fees, and taxes owing to the City. (Ord. 987, September 21, 2015)

5.12.040 LOCATION AND HOURS OF OPERATION

1. No marijuana retailer may be located within 1,000 feet of another marijuana retailer. Distances between facilities will be calculated from the closest point with respect to property lot lines. (Ord. 1040, October 21, 2019; Ord. 988, November 2, 2015)

2. Marijuana facilities may not be located within 1,000 feet of a public or private school. A school is one described by ORS, OLCC, and OHA. Distances from the facility to a school will be calculated from the closest point with respect to

property lot lines. However, if a school moves to within a 1,000 feet of a pre-existing marijuana facility, the facility is not required to move unless the facility changes ownership. (Ord. 988, November 2, 2015)

3. The hours of operation for a Medical Marijuana Dispensary or Marijuana Retailer may not be outside of 9am to 7pm. (Ord. 1040, October 21, 2019; Ord. 988, November 2, 2015)

5.12.050 FACILITY AND SECURITY

1. A marijuana facility is required to utilize air filtration which, to the greatest extent feasible, confines all objectionable odors associated with the facility to the premises. For the purpose of this provision, the standard for judging "objectionable odors" shall be that of an average, reasonable person with ordinary sensibilities after taking into consideration the character of the neighborhood in which the odor is made and the odor is detected. (Ord. 1040, October 21, 2019; Ord. 987, September 21, 2015)

2. All marijuana products, including refrigerated products, must be kept in a secure and locked storage unit. (Ord. 1040, October 21, 2019; Ord. 987, September 21, 2015)

3. Marijuana facilities must provide for secure disposal of marijuana remnants or by-products; such remnants or by-products shall not be placed within the facility's exterior refuse containers. (Ord. 987, September 21, 2015)

4. No loitering is allowed within 15 feet of the entrance of the facility. (Ord. 1040, October 21, 2019; Ord. 987, September 21, 2015)

5. Alarm systems must have a City of Stayton permit in accordance with SMC Title 8. (Ord. 1040, October 21, 2019; Ord. 987, September 21, 2015)

6. Marijuana facilities may not use or implement any type of device or apparatus that is designed to injure, maim, or kill by the contact of any person with any string, wire, rod, stick, spring, or other contrive affixed to it or connected with it or with its trigger for the purpose of activating the device including, but not limited to, any spring gun or set gun as prohibited by law. (Ord. 987, September 21, 2015)

7. If security officers are used for marijuana facility security they must be certified through the Oregon Department of Public Safety Standards and Training and registered with the Stayton Police Department. (Ord. 987, September 21, 2015)

8. All criminal incidents, whether attempted or actual, must be reported to the Stayton Police Department as soon as they occur or as soon as they are discovered. (Ord. 987, September 21, 2015)

5.12.060 PRODUCT AND USAGE

1. No marijuana products may be consumed on the facility's premises in any form including persons with medical cards. (Ord. 987, September 21, 2015)

2. No person under the age of 21 may be present on the premises at any time. Exception: OLCC/OHA and/or Stayton Police underage decoy persons may be on the premise for the purpose of compliance checks. (Ord. 987, September 21, 2015)

3. No marijuana products may be sold or given to a person under the age of 21. (Ord. 987, September 21, 2015)

4. No marijuana products may be sold or given to an individual knowing the product will be sold or given to a person who does not have a Oregon Medical Marijuana Program card or is under the age of 21 or used in violation of State law. (Ord. 988, November 2, 2015)

5. All sales or transfers of marijuana products must occur completely inside the marijuana facility building. (Ord. 987, September 21, 2015)

6. No marijuana sales or transfers may be conducted through a "drive up" or "walk up" window service. (Ord. 987, September 21, 2015)

7. Items used or designed specifically for using, smoking, ingesting, inhaling, or processing of marijuana such as pipes, bongs, vaporizers, etc. may only be sold in a licensed marijuana retail facility or medical marijuana dispensary. (Ord. 987, September 21, 2015)

8. Cannabinoid extract products may only be produced in an Oregon State licensed facility in an industrial zone as described in SMC 17.16. (Ord. 1040, October 21, 2019; Ord. 987, September 21, 2015)

9. Cannabinoid concentrates may only be produced following State statute or rules. (Ord. 987, September 21, 2015)

5.12.070 ENFORCEMENT

1. The Stayton Chief of Police or designee is charged with the enforcement of the provisions of this Chapter. (Ord. 987, September 21, 2015)

2. As part of investigation of a crime or violation of ORS or this Chapter, which law enforcement officials reasonably suspect has taken place on the premises of the facility, the Stayton Police shall be allowed to view surveillance video or digital records at any reasonable time. (Ord. 987, September 21, 2015)

3. Violations of this Chapter are punishable by a fine set by City Council resolution. Fines for violations of this Title may be based per violation or per day the facility is out of compliance and continues to operate. For example if an employee is fined for consuming product on the premises, that person may receive a one-time fine for the violation. If the facility operates without a license it may be fined per day that it continues to operate without being in compliance. (Ord. 987, September 21, 2015)

4. For non-safety issue violations the facility may be allowed up to 10 days to become compliant before a fine may be declared. (Ord. 987, September 21, 2015)

5. The Stayton Chief of Police has the authority to revoke a facility license based on serious or continued uncorrected violations of this Chapter. If the license is revoked, a report shall be submitted to the Stayton Municipal Court. On application of the affected party, a revocation hearing shall be held at the Municipal Court within 30 days. The Municipal Court Judge shall rule whether to uphold the revocation or reinstate the license. A report shall then be submitted to the OLCC/OHA notifying them of the status of the facility. After the initial revocation hearing and within the current license year, the facility owner/operator may request an additional hearing with the Municipal Court Judge to show they have corrected the violation(s) for which the license was revoked. The Municipal Court Judge may then rule as to whether the license may be reinstated or continue to be revoked. If the facility requests reinstatement after the current licensing year, it shall re-apply for a new license after a reinstatement hearing. The Municipal Court Judge ruling is the final decision of the City. (Ord. 1040, October 21, 2019; Ord. 987, September 21, 2015)

6. The City is not responsible for any loss, including financial loss due to a revocation or denial of a facility license. (Ord. 987, September 21, 2015)

5.12.080 SEVERABILITY

If any provision(s) of this Chapter or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Chapter that can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are severable.

CHAPTER 5.16

GARAGE SALES

SECTIONS

5.16.010 REGULATIONS (Ord. 995, March 21, 2016)

1. No more than four (4) garage sales are allowed at any one location per year.
2. A single garage sale at any one location may not last more than 72 consecutive hours.
3. Items sold at garage sales must be the personal property of those participating in the garage sale. Exception: If the garage sale is a fund raiser for a Stayton based civic or nonprofit group fundraising for their organization or cause, the items sold may be donated items from individuals other than those who are participating in the event.
4. Items sold at a garage sale may not be items that are purchased for the purpose of resale as second hand items as defined in SMC 5.32.

5.16.020 PENALTY (Ord. 995, March 21, 2016)

A violation of this Chapter is punishable by a fine set by Council resolution.

5.16.030 [repealed] (Ord. 995, March 21, 2016)

5.16.040 [repealed] (Ord. 935, July 01, 2011)

5.16.050 [repealed] (Ord. 935, July 01, 2011)

CHAPTER 5.20

SOLICITORS

SECTIONS

5.20.010 LICENSE: APPLICATION

1. [repealed] (Ord. 935, July 01, 2011)
2. License applications for solicitors shall include a photograph of the applicant and all representatives and employees taken at the time of application and the license number of the motor vehicle(s) to be used, in addition to the other information required by this Chapter. (Ord. 935, July 01, 2011; Ord. 668, July 02, 1990)

5.20.020 [repealed] (Ord. 935, July 01, 2011)

5.20.030 LICENSE: REPRESENTATIVES OR EMPLOYEES

1. A solicitor shall file applications for licenses for all representatives or employees as a part of the principal application. (Ord. 935, July 01, 2011)
2. The application shall contain the names of all persons to be permitted as representatives or employees of the solicitor. The license shall be issued to the employer designating the names and numbers of persons as named in the application. (Ord. 935, July 01, 2011)
3. The employer may make substitutions and may request the Administrator to amend the license from one representative or employee to another without payment of any additional fee, upon furnishing the required licensing information on that substituted person and subject to the same requirements as the original employee. (Ord. 668, July 2, 1990)
4. Permits are non-transferable.

5.20.040 SOLICITATION REGULATIONS (Ord. 1011, September 18, 2017)

1. Solicitors must carry a valid Solicitor's permit with them and show it to any resident or officer of the City should they request to see it. Solicitors without a valid permit are subject to a fine.
2. The permit may not be used as an endorsement of the City.
3. Soliciting is prohibited at any residence or business that has posted a "No Solicitors" or "No Trespassers" sign on the front of the residence or adjacent to the business entrance.
4. Soliciting shall be permitted only from 9:00 a.m. to 8:00 p.m.
5. Solicitation may only occur at the main entrance of the residence.
6. Solicitors must tell each person who they are soliciting their name and the name of the business or organization they represent.
7. Solicitors must provide a written receipt for purchases exceeding $5.00. The receipt must describe the goods and services sold and state the price, amount of cash payment, if any, the balance due and the terms of payment.
8. Solicitors are not allowed to solicit at the same home more than once within a thirty (30) day period.
9. Solicitors must leave a residence or business should the owner ask you to leave. Violators can be arrested and prosecuted for criminal trespass.
10. Solicitors may not make any assertion, representation or statement, or utilize any plan or scheme which misrepresents the purpose of the visit.
11. A Solicitors Permit is not required for persons soliciting for charitable contributions. "Charitable" means any activity carried on for unselfish, civic or humanitarian motives for the benefit of others and not for private gain. Charitable Contribution means any contribution made on behalf of a nonprofit organization holding a tax exemption certificate from the IRS pursuant to Section 501. Any charitable organization should submit a copy of their tax-exempt certificate along with a letter to the City Recorder identifying the recipient of the funds, fund raising methods, and the dates during which the funds will be collected prior to soliciting in the City.
12. Solicitors shall not have any exclusive right to any location in the public streets, nor shall any be permitted a stationary location. A solicitor shall not be permitted to operate in any congested area where such operations might endanger, impede, or inconvenience the public. (Ord. 935, July 01, 2011)
13. The Administrator, at the time of license issuance, shall inform the applicant of any congested areas where the solicitor may not operate. Regardless of the locations identified by the Administrator, the judgment of a police officer or enforcement officer at the scene shall be deemed conclusive as to whether the area is congested or the public is endangered,

impeded, or inconvenienced, whereupon a solicitor shall move to an alternate location upon request. (Ord. 935, July 01, 2011; Ord. 668, July 02, 1990)

5.20.050 NOISE CONTROL

A solicitor, or any person in their behalf, shall not shout or use any sound devices, including any loudspeaker, radio, or sound-amplifying system in any public or private premises of the City from which sound in violation of Section 8.04.140 of this Code. (Ord. 935, July 01, 2011; Ord. 668, July 02, 1990)

5.20.060 LICENSE: CRITERIA FOR APPROVAL

In review of an application for a license for a solicitor, the Administrator shall conduct a check of the applicant's previous record of licensure or criminal background. The Administrator shall issue a license unless the Administrator finds any of the following conditions have occurred: (Ord. 935, July 01, 2011)

1. Fraud, misrepresentation, or false statement contained in the application for license;
2. Fraud, misrepresentation, or false statement made in the course of carrying on an enterprise as an itinerant merchant or solicitor in Stayton or in other communities; (Ord. 935, July 01, 2011)
3. Any violation of this Title or other Title of the Stayton Municipal Code, state, or federal law; (Ord. 935, July 01, 2011)
4. Conviction with the past five years of any crime or misdemeanor involving fraud, identity theft, or misappropriation of funds; or (Ord. 935, July 01, 2011)
5. Conviction as a predatory sex offender (Ord. 935, July 01, 2011)

5.20.070 LICENSE: DENIAL, SUSPENSION, REVOCATION, PENALTY

1. Licenses issued to any solicitor may be revoked or suspended by the Administrator upon complaint or good cause. "Good Cause" means and includes any reason the license could be refused in the case of the original application, or for any act in connection with a violation of the conditions of this Chapter. An appeal of a revocation or suspension may be heard at the next regularly scheduled City Council meeting. If such hearing is requested, it will follow in accordance with provisions of this Title for any of the causes listed in Title 5.20 as reasons for revocation, suspension, or denial of a license. In addition, conducting the activity or enterprise in an unlawful manner or in such a manner as to constitute a breach of the peace or a menace to the health, safety, or general welfare of the public shall be grounds for revocation of a license. (Ord. 935, July 01, 2011; Ord. 668, July 02, 1990)

2. A violation of a provision of this Chapter is punishable by a fine approved by Council Resolution.

CHAPTER 5.24
LIQUOR LICENSES

SECTIONS:

5.24.610 COST OF APPLICATION PROCESS

The Oregon Liquor Control Commission may require of every applicant for a liquor license the recommendation, in writing, of the City Council. In the event such recommendation is so required, the applicant shall pay for the cost of processing prior to the City Council's consideration of the license request in accordance with the schedule determined by City Council resolution. (Ord. 935, July 01, 2011; Ord. 825, January 2, 2001; Ord. 668, July 2, 1990)

CHAPTER 5.28

MERCHANT PATROLS AND PRIVATE SECURITY ENTERPRISES

SECTIONS

5.28.710 CERFICATION REQUIRED

Any merchant patrol, private security enterprises, private detectives, and similar enterprises (hereinafter referred to as "Merchant Patrol/private security business" conducting business or operating within the City shall have a current certification or license from the Oregon Department of Public Safety, Standards and Training pursuant to ORS Chapters 181 or 703. (Ord. 935, July 01, 2011)

CHAPTER 5.32

SECONDHAND DEALERS AND PAWN BROKERS

SECTIONS

5.32.010 LICENSE REQUIRED: APPLICATION (Ord. 994, February 16, 2016)

1. Secondhand Dealers and Pawn Brokers as defined in this Title, doing business in the City shall have a City business license unless otherwise exempted herein. There shall be a separate license for each addressed location that a business operates at within the City.
2. A Secondhand and Pawn license is valid for a term of one year and expires on December 31st of each year.
3. Secondhand Dealers and Pawn Brokers must comply with all Federal, State, and Local laws.
4. Each licensee shall pay an annual licensing fee set by Council resolution.

5.32.020 LICENSE EXEMPTIONS (Ord. 994, February 16, 2016)

The following types of businesses and activities are exempt from this chapter:

1. A person who engages in, conducts, manages, or carries on any business that does not buy regulated property outright, but occasionally accepts in trade regulated property as part or full payment for new articles, where such business is incidental to the primary business of the sale of new articles or a repair service;
2. A person who engages in, conducts, manages, or carries on any business that deals exclusively in the purchase and sale of used whole automobiles, books or books on tape, trading cards and sports memorabilia, individual video games, music, clothing, furniture, major household electric or gas appliances, or farm implements and machinery;

3. A person, who engages in, conducts, manages, or carries on any business that deals exclusively in purchasing full or partial estates. The purchaser shall keep a receipt for these items for at least one year;

4. A person who engages in, conducts, manages, or carries on any nonprofit corporation or association that purchases, sells or otherwise exchanges only donated articles;

5. A person whose purchases do not exceed 50 items of regulated property each year;

6. A person who buys and sells regulated property which consists of the sale of their own personal property acquired for household or other personal use; or

7. A person who has an event commonly known as a "garage sale," "yard sale," or "estate sale" which is regulated by Chapter 5.16.

5.32.030 RECORDKEEPING

1. Any Secondhand Dealer or Pawn Broker conducting business in the City, shall submit to the City, documentation of the transactions for regulated property in a format set forth by the City which includes all of the information set forth by the City. This format may be, but not limited to electronic submission and/or paper copies of transactions. (Ord. 994, February 16, 2016)

2. If the City changes the format for reporting, the business will have 60 days to comply with the new format. If the business can not comply within the allotted time, they shall submit a written request for additional time to the City before the deadline. Additional time may not be indefinite but must be reasonable. (Ord. 994, February 16, 2016)

3. Pawn Brokers are required only to report new transactions. Loan renewals do not need to be reported. (Ord. 994, February 16, 2016)

4. All records for "regulated property" shall be kept in an orderly manner on the Secondhand Dealer or Pawn Broker's premises and open for reasonable inspection by peace officers upon demand. Each Secondhand Dealer or Pawn Broker shall keep a paper or electronic record of each purchase bearing the signature and/or fingerprint of the customer for a period of one year. (Ord. 994, February 16, 2016)

5. If any regulated property on deposit, pledge, or purchase has engraved thereon any number, word, or initials, or contains any setting of any kind, the description in the records shall contain such number, word, or initial, and shall show the kind of settings and number of each kind.

6. No Secondhand Dealer or Pawn Broker shall be required to record the description of any property purchased from manufacturers or wholesale dealers having an established place of business, or secured from any person doing business and having an established place of business in the City, but

such goods shall be accompanied by a bill of sale or other evidence of legitimate purchase and must be shown to any police officer upon request.

7. The records concerning regulated property shall be kept for at least one (1) year after the date of receipt of such articles or materials. When any business is discontinued, such records or duly authenticated copies thereof shall be delivered to the Police Department or shall be disposed of as it directs.

5.32.040 RECORD FORMS

In addition to any other records required to be kept by this Chapter, all Secondhand Dealers and Pawn Brokers shall, at the time of taking, receiving, or purchasing any article for the business, enter the item and description of the regulated property or things pledged, pawned, received, or purchased, as well as the sellers information into an electronic reporting system approved by the City. Seller's information shall be verified with photo identification and signature or fingerprint. (Ord. 994, February 16, 2016)

5.32.050 REGULATED PROPERTY (Ord. 994, February 16, 2016)

1. Regulated property is a type of property that has been determined by law enforcement to be property frequently the subject of theft or other criminal activity. The following list of regulated property may be added to by the Chief of Police in writing to the Secondhand and Pawn Brokers if a particular type of property becomes prone to criminal activity.

   a. Jewelry, watches, gems, or precious metals with a retail market value of over fifty dollars ($50.00);

   b. Television, video and stereo equipment;

   c. Cameras and camera equipment;

   d. Firearms, operable or not operable;

   e. Sporting equipment specifically and individually identifiable by way of a serial number or some other marking;

   f. Power tools;

   g. Electronic devices such as but not limited to: Computers, phones, electronic tablets, and electronic gaming devices;

   h. Musical instruments that are specifically and individually identifiable by way of a serial number or some other marking;

   i. Individual Coins and Currency that are certified by a nationally recognized certifying agency; and

   j. Coins, currency, and token collections that are valued over $1,000.

   (Ord. 994, February 16, 2016)

2. The following list of properties are exempt from reporting:

   a. Precious metals in the form or bullion bars or rounds such as but not limited to gold, silver, platinum, and palladium;

   b. Postage stamps, stamp collections and philatelic items with no unique identifier, unless they are over $500 in value or certified;

   c. Individual video game cartridges;

   d. Individual movies;

   e. Individual books that are mass produced with no unique identifier, unless they are over $250 in value; and

   f. Coins, currency, and tokens unless certified by a nationally recognized certifying agency; and

   g. Clothing

   The above lists do not preclude an item from being documented as regulated property if a dealer believe there is a need to track the item. (Ord. 994, February 16, 2016)

5.32.060 PROPERTY SALES

1. No regulated property listed in this Chapter shall be sold from the secondhand dealer or pawnbroker's place of business for seven (7) days after purchase.

2. Whenever any police officer serves notice in writing to any Secondhand Dealer or Pawn Broker not to sell any property received on deposit, or purchased, or permit same to be redeemed, the property shall not be sold, redeemed, or otherwise disposed of until such time as may be determined by the Police Department, not exceeding fifteen (15) days from the day of notice aforesaid. Any property purchased by the dealer which is determined to be stolen property, may be seized by the Police Department and may be returned to the rightful owner without any recovery of purchase price to the dealer from the owner or the City.

5.32.070 ARTICLES TO BE TAGGED

Any Secondhand Dealer or Pawn Broker receiving in pledge, by purchase or otherwise, any article or goods shall affix to the article or goods a tag upon which shall be written a number, in legible characters, which number shall correspond to the number in the book required to be kept as heretofore provided or provide an alternative form of identifying articles to correspond to the book record approved by the Police Department.

5.32.080 DEALINGS WITH MINORS AND PERSONS UNDER THE INFLUENCE OF INTOXICANTS PROHIBITED

No secondhand dealer or pawnbroker shall buy or receive on deposit or for pledge any article or thing whatsoever from or sell any article or thing to any person under the influence of intoxicants. No Secondhand Dealer or Pawn Broker shall buy or receive on deposit or for pledge any article or thing whatsoever from any person under the age of eighteen (18) years.

5.32.090 INSPECTION OF ARTICLES AND RECORDS

Any person doing business as a Secondhand Dealer or Pawn Broker, and any person employed by such business, shall permit a representative of the Police Department entry to the business premises for the limited purpose of inspecting any articles received on deposit, pledged, or purchased in the business as regulated by this Chapter and/or the records incident thereto, to ensure compliance with the provisions of this Title. Such inspections may be made at any reasonable time.

5.32.100 PENALTY (Ord. 994, February 16, 2016)Violation of this Chapter is punishable by a fine set by Council resolution.

CHAPTER 5.36

JUNK DEALERS

SECTIONS

5.36.910 LICENSE REQUIRED

Junk dealers doing business in the City shall obtain a license unless otherwise exempt. (Ord. 935, July 01, 2011)

5.36.920 [repealed] (Ord. 935, July 01, 2011)

5.36.930 RECORDKEEPING

A junk dealer shall keep a daily ledger, written in indelible form, of all junk or articles purchased, including a description thereof, name, and address of the person from whom purchased or acquired, day and hour of purchase, and price paid. Such record shall be open for inspection by any police officer at all reasonable times. No entry in such records may be changed, erased, obliterated, or defaced. (Ord. 935, July 01, 2011; Ord. 668, July 02, 1990)

5.36.940 PREMISES

1. The premises and structures of a junk dealer shall be kept in a sanitary manner.
2. Representatives of the Police Department may go upon and inspect such premises at all reasonable times. (Ord. 935, July 01, 2011)
3. The premises upon which the business of a junk dealer is carried on shall be enclosed by a fence or other structure not less than six (6) feet high above the street level, constructed so that no dust or other material may pass through, and kept properly painted and in good repair.
4. No material or article shall be piled so as to protrude above the fence.

5. No street, sidewalk, or portion thereof may be used at any time to store, pile, or maintain any junk, except as necessary in the actual moving of such material. (Ord. 668, July 02, 1990)

5.36.950 PURCHASES FROM MINORS RESTRICTED

A junk dealer shall not purchase or acquire from any person less than eighteen (18) years of age any junk without the written consent of the parents or the guardian of such person. (Ord. 935, July 01, 2011; Ord. 668, July 02, 1990)

5.36.960 RETENTION OF ARTICLES

1. All junk purchased or received shall be retained for five (5) days before disposal, except old rags and paper.
2. Whenever any junk dealer is notified by a police officer to retain any article purchased by such dealer so that the police can ascertain whether the article is stolen, the dealer, upon receipt of the notice, shall retain at the place of business such articles for fifteen (15) days after receipt of the notice. Any junk purchased by the dealer that is determined to be stolen property may be seized by the Police Department and may be returned to the rightful owner without any recovery of purchase price to the dealer from the owner or the City. (Ord. 935, July 01, 2011; Ord. 668, July 02, 1990)

5.36.070 [repealed] (Ord. 935, July 01, 2011)

CHAPTER 5.40

CARNIVALS, AMUSEMENT PARKS, OR AMUSEMENT CONCESSIONAIRES

SECTIONS

5.40.1010 LICENSE REQUIRED

Carnivals, Amusement Parks, or Amusement Concessionaires shall not be permitted to operate within the City without first obtaining a license, unless otherwise specifically exempted in this Chapter.

5.40.1020 APPLICATION REQUIREMENTS

The Application for a license for a Carnival, Amusement Park or Amusement Concessionaire shall include:

1. A description of the types of rides, amusements, games of chance, and a map of their location within the carnival or amusement park.
2. A copy of a current license for each ride from the Building Codes Division of the Oregon Consumer and Business Services Department.
3. A plan for adequate sanitation, water supply and trash disposal.

5.40.1030 EXEMPTION

A Carnival, Amusement Park or Amusement Concessionaires conducted by civic organization, as a fundraiser solely for the benefit of that civic organization and staffed primarily by volunteer labor shall be exempt from the requirement to obtain a license. (Ord. 935, July 01, 2011)

CHAPTER 5.44

PROMOTIONAL EVENTS

SECTIONS

5.44.1110 REGULATIONS

The following specific regulations shall be adhered to at all times by the licensed promoter of any promotional event:

1. Each promotional event shall be limited to include no more than two (2) promotional activities at one time.
2. A promotional event shall not exceed five (5) consecutive days in duration.
3. A promotional event shall be conducted entirely on private property unless a permit is obtained from the Chief of Police under Chapter 10.36 of this Code or from the Public Works Director under Chapter 12.08 of this Code.
4. The licensed promoter is responsible for the removal of all amusements, features, structures, and any debris or material involved with or created by the event. (Ord. 935, July 01, 2011)

CHAPTER 5.48

MOBILE FOOD UNITS

SECTIONS

5.48.010 REGULATIONS

1. In addition to the information required by Section 5.08.020, an application for a mobile food unit license shall contain documentation that the applicant has obtained all required health and sanitary licenses from the State of Oregon and Marion County.
2. Unless part of an event or festival that has received a permit from the City, any mobile food unit that is in place for more than 72 hours without being moved shall be considered a land use and require approval under the appropriate provisions of Chapter 17.12.
3. Location.
    a. Mobile food units may only operate in zones where eating and drinking establishments are allowed as a permitted use or use permitted after site plan review in Section 17.16.070 or in the parking area of a manufacturing business for the purpose of primarily serving the employees of that manufacturing business.
    b. Mobile food units shall not operate or be located in a public right-of-way. Mobile food units may operate on city-owned property provided the licensee is granted a site specific permit which shall be displayed conspicuously on-site.
    c. A mobile food unit may only operate in an approved parking lot, or other hard surface area, where the off-street parking areas are met. The unit shall be located such that the queue of customers at an ordering or serving window does not block a public sidewalk. The customer queue shall allow a continuous through pedestrian zone of at least five feet in width along the sidewalk.
    d. The location standards of this section do not apply to mobile food units which operate as a vendor within an approved community event or where a street closure permit is granted under Chapter 10.36.
4. Standards
    a. A mobile food unit, including all items associated with the operation, shall not obstruct pedestrian pathways, driveways or drive aisles of any off-street parking area and shall not be located in the sight distance triangle as defined in Section 17.04.100 or so as to create a traffic or safety hazard.
    b. All mobile food units which are parked in a stationary location for a period of 24 hours or longer shall provide screening for all conduit, tanks, and storage areas from all public areas and streets by sight-obscuring fencing and/or temporary landscaping and skirting shall be provided along the perimeter of the mobile food unit.
    c. Mobile food units may not be permanent structures and must remain capable of being moved, with wheels attached.

CHAPTER 5.50

PHARMACEUTICAL DRUG DISPOSAL

SECTIONS

5.50.010 REGULATIONS

1. Retail Pharmacies located within the City of Stayton are required to offer a means for customers to dispose of unwanted prescription drugs such as a “drop box.”
2. The “drop box” must be in a position which is secure, tamperproof, similar to a post office style box and visible by pharmacy staff within the pharmacy business.
3. The Retail Pharmacy must dispose of the disposed drugs in a legal manner such as a pick-up disposal service or some other DEA approved method.

CHAPTER 5.52

CONDUCTING BUSINESS IN A STREET RIGHT-OF-WAY

SECTIONS

5.52.010 DEFINITIONS

The following definitions apply unless inconsistent with the context:

1. Manager: The City Manager or the City Manager's designee.
2. Operating Area: the area approved for conducting business under a sidewalk vendor permit. (Ord 25-002, May 5, 2025)
3. Sidewalk Café: a duly licensed restaurant or café under state and local law, which has seating and or customer service on the sidewalk as an extension of the regular service area of the restaurant or cafe. (Ord 25-002, May 5, 2025)
4. Sidewalk Vendor: a business, which may include a sidewalk cafe, that conducts business within the street right of way by means of displaying merchandise, providing table service, or providing seating for customers directly in front of the building in which the business is located. (Ord 25-002, May 5, 2025)

5.52.020 GENERAL PROVISIONS

1. It is unlawful for a person to conduct business within a street right of way except as provided in this subchapter.
2. ~~No person may conduct business within a street right of way without first obtaining a sidewalk vendor permit from the City.~~ (Ord 25-002, May 5, 2025)

5.52.030 MISCELLANEOUS APPURTENANCES

1. A sidewalk vendor is allowed to install certain appurtenances on sidewalks, limited to planters, solid waste containers, benches, drinking fountains and bicycle racks within the operating area. (Ord 25-002, May 5, 2025)
2. No advertising is allowed on the appurtenances under Section 5.52.030.1, except the acknowledgement of donors of same, which may be displayed on a plastic or metal plaque not to exceed 160 square inches in size. (Ord 25-002, May 5, 2025)
3. In the event an appurtenance under Section 5.52.030.1 is deemed by the Manager to be in violation of the code: (Ord 25-002, May 5, 2025)

    a. The appurtenance deemed to be a violation will be removed by the city 10 days after providing written notice to the owner or person in charge; or

    b. If the appurtenance is deemed by the Manager to be an immediate danger to the life, health, property or safety of the public, the Manager may remove the appurtenance immediately and bill the owner for the cost of removal and storage.

5.52.040 SIDEWALK VENDORS OTHER THAN SIDEWALK CAFÉS

A business operating on a property adjacent to a public street may conduct business in the street right of way subject to the following conditions: (Ord 25-002, May 5, 2025)

1. The operating area must be placed directly in front of the associated establishment;
2. The operating area may not be placed within a curb extension (bulb-out) unless otherwise authorized by the Manager;
3. The operating area may not be placed in front of a building entrance and must leave unobstructed pedestrian travel space equal to the width of the doorway from the doorway to the curb line;
4. The operating area must leave unobstructed a linear five foot area of sidewalk;
5. The operating area must leave a two-foot buffer from the curb unless authorized by the Manager;
6. Decorative barriers, external to the operating area when used, must:

    a. Be placed on the sidewalk to prevent pedestrians from walking into or through the operating area when approaching from lateral sides;

    b. Have a bottom edge not more than 15 inches above the sidewalk and to exceed four feet in height;

    c. Contain no advertising beyond identifying the name of the sidewalk café and its menu items and specials;

    d. Be constructed so that they are easily removed, readily accessible to the handicapped and easily detected by a sight impaired pedestrian;

7. Merchandise on display may be placed only in the 30-inch space most adjacent to the exterior wall of the building housing the business; and,

8. No vending machines are allowed in a operating area;

5.52.050 SIDEWALK CAFÉS

A duly licensed restaurant or café under state and local law may obtain a sidewalk vendor to conduct business as a sidewalk café subject to the following conditions: (Ord 25-002, May 5, 2025)

1. The operating area must be placed directly in front of the associated establishment;
2. The operating area may not be placed within a curb extension (bulb-out) unless otherwise authorized by the Manager;
3. The operating area may not be placed in front of a building entrance and must leave unobstructed pedestrian travel space equal to the width of the doorway from the doorway to the curb line;
4. The operating area must leave unobstructed a linear five foot area of sidewalk, taking into account street trees, signs, parking meters, or other obstructions;
5. The operating area must leave a two-foot buffer from the curb;
6. Decorative barriers, external to the operating area when used, must:

    a. Be placed on the sidewalk to prevent pedestrians from walking into or through the operating area when approaching from lateral sides;

    b. Have a bottom edge not more than 15 inches above the sidewalk and to exceed four feet in height;

    c. Contain no advertising beyond identifying the name of the sidewalk café and its menu items and specials; and

    d. Be constructed so that they are easily removed, readily accessible to the handicapped and easily detected by a sight impaired pedestrian.

7. Tables to be used by standing customers may be placed only in the 30-inch space most adjacent to the exterior wall of the building housing the primary restaurant or café;
8. Only food and beverages prepared and offered for sale in the primary establishment may be served in the operating area and are under the same controls and conditions of service as in the primary establishment;
9. No vending machines are allowed in a operating area;
10. Table umbrellas are allowed with a minimum height of seven feet above sidewalk level in a operating area;
11. Dirty dishes and all debris must be promptly removed from a operating area;

12. Solid waste containers may be required in the operating area for the placement of solid waste by customers; and
13. Equipment in the operating area must be attended at all times.

~~5.52.060 APPLICATION FOR PERMIT~~

~~Application for a sidewalk vendor permit must be made on a form provided by the Manager, with a separate application for each type of commodity or service and include, but not be limited to:~~

~~1. The names and addresses of the owner and all operators;~~

~~2. Copies of all necessary licenses and permits required by state or local authorities;~~

~~3. Identification of the type of business conduct;~~

~~4. The means to be used in conducting the business, including, but not limited to, a description of any mobile device to be used;~~

~~5. The specific location proposed;~~

~~6. A certificate of insurance that:~~

~~a. Names the city, its officers and agents, as coinsured and co-indemnified for any damage to property or injury to persons which may result from the activity carried on under the sidewalk vendor permit;~~

~~b. Insures the permittee, property owners and the city from all claims which may arise from operation under the sidewalk vendor permit or in conjunction with it;~~

~~c. Provides coverage of not less than $200,000 for bodily injury for each person, $500,000 for each occurrence and not less than $50,000 for property damage per occurrence or a combined single limit coverage of $500,000; and~~

~~d. May not be terminated or canceled without 30 days' written notice to the city and so specifies.~~

~~7. If seeking the use of appurtenances under Section 5.52.030.1, photographs or detailed scale drawings showing the design and precise location proposed for such appurtenances;~~

~~8. If seeking to operate a sidewalk café under Section 5.52.050, photographs or detailed scaled drawings of the proposed permit operating area and the portion of the restaurant or cafe connecting to same, showing the intended placement of barriers, chairs, tables and other appurtenances; and~~

~~9. A nonrefundable fee, as set by council resolution to cover the cost of investigation and processing, must accompany applications for initial and renewal of sidewalk vendor permits.~~ (Ord 25-002, May 5, 2025)

5.52.070 CONDITIONS OF OPERATION

1. ~~Only business conduct as approved under the sidewalk vendor permit may occur.~~ (Ord 25-002, May 5, 2025)
2. A sidewalk vendor may not lead to or cause congestion or blocking of pedestrian traffic contrary to the limitations established in this Chapter.
3. A sidewalk vendor may not cause or allow loud or undue noise by vocalizing or through sound amplification.
4. A sidewalk vendor may not cause or allow an offensive odor as a result of the vendor's business conduct.
5. If a sidewalk vendor is selling edible items they must be immediately consumable.
6. If a sidewalk vendor is selling non-edible items, they must be easily carried by pedestrians and be pre-manufactured, prepackaged or previously handmade.
7. Any sidewalk vendor selling edible items must provide a solid waste container for use by customers.

~~5.52.080 PERMIT ISSUANCE~~

1. ~~Review and Issuance. The Manager will review an application for a sidewalk vendor permit and may issue a permit after all the conditions under Section 5.52.040 or 5.52.050 are met and upon finding that use of the permit operating area is compatible with the public use of the sidewalk area and the proposed business conduct is deemed to be in the best interest of the public. In making this determination, the Manager will consider any pertinent information, whether submitted by the applicant or obtained by the Manager independently.~~
2. ~~Denial and Appeal. If the application for sidewalk vendor permit is denied because the proposed location is determined by the Manager to be unsuitable, the applicant may file a written appeal with the city within 15 days of notice of denial. The council will then set, notice and conduct a hearing on the appeal of applicant.~~ (Ord 25-002, May 5, 2025)

~~5.52.090 PERMITS~~

~~Sidewalk Vendor Permits.~~

1. ~~Will name the applicant and the conditions under which the sidewalk vendor permit is granted;~~
2. ~~Expire one year from issuance;~~
3. ~~Are not transferable in any manner;~~
4. ~~Are valid only when used within the permit operating area designated on the sidewalk vendor permit; and~~
5. ~~May be suspended for up to five days when the City authorizes a special event in the street on which the permit has been issued and provides a written notice to the permittee~~

~~by either personal delivery or by mail via first class United States Postal Service at least five days prior.~~ (Ord 25-002, May 5, 2025)

5.52.100 NON-PROFIT ORGANIZATIONS

1. Local nonprofit organizations may, upon approval of the application made to the city on a form approved by the Manager that includes written consent from the adjacent property and business owners or operators, conduct bake sales, rummage sales and other similar fundraising activities for a duration not to exceed three days, no more frequently than once per calendar quarter and only between 9:00 a.m. and 9:00 p.m.
2. ~~The application under Section 5.52.100.1 must be accompanied by a fee, as set by council resolution, and a certificate of insurance conforming to Section 5.52.060.6.~~ (Ord 25-002, May 5, 2025)

5.52.110 APPEALS

1. An appeal of a decision of the Manager will be heard by the Council.

5.52.120 VIOLATIONS

1. A violation of the provisions of this Chapter will subject citation in Municipal Court.
2. Upon a finding of a violation by the Municipal Court the Court shall impose a fine in accordance with a Resolution adopted by the City Council. Each day the violation exists after notification shall constitute a separate offense.

TITLE 6.

ANIMALS

CHAPTERS

TITLE 6. ANIMALS

CHAPTER 6.04

ANIMAL CONTROL

SECTIONS

6.04.010 APPLICABLE LAW

The statutes and regulations of the State of Oregon and Marion County, Oregon, shall apply. Accordingly, the City of Stayton shall have the right to prosecute. (Ord. 697, December 1991; Ord. 874, section 22, 2004)

6.04.020 DEFINITIONS

As used in this chapter, the following words and phrases mean, as set out in this section:

ANIMAL: Any one of the lower animals as distinguished from and not including man, belonging to the animal kingdom of the living beings, typically differing from plants, and including mammals, fowl, reptiles, and fish.

DOMESTIC: An animal conditioned so as to live and breed in a tame environment and normally amenable to human habitats.

ENFORCEMENT COMPLAINT: That document(s) which, when properly served upon the alleged violator of an ordinance which is punishable as an infraction, brings the matter before the appropriate court for resolution. An enforcement complaint shall provide a scheduled fine, set by the municipal judge, which may be paid in lieu of appearance in court.

FOWL: A bird of any kind.

INFRACTION: An offense or violation of a city ordinance punishable only by a fine, forfeiture, suspension, or revocation of the registration or other privilege, or other civil penalty.

INJURY: Includes, at minimum, the breaking or scraping of bodily tissue of any person or animal, no matter how slight.

KEEPER: Any person, firm, or association having the custody of or authority to control the animal.

LIVESTOCK: Horses, mules, jackasses, burros, cattle, sheep, goats, donkeys, swine, and any fur-bearing animal bred and maintained, commercially or otherwise, within pens, cages, and hutches.

MISTREATMENT: Improper care of an animal, which includes but is not limited to abusive treatment, neglect, overdriving, overloading, torturing, tormenting, cruel acts, beating, mutilation, deprivation of necessary sustenance, or abandonment of any animal.

OWNER OF PROPERTY: Any person who has legal or equitable interest in real property, or who has a possessory interest therein, or who resides on the property, or is a guest of any person who owns, rents, or leases said property.

POULTRY: Domestic fowl, such as chickens, turkeys, ducks, geese, or other fowl raised for meat or eggs.

REGISTRATION: Written information, notation or memorandum of record filed with city or applicable public body, in accordance with its laws and rules.

RUNNING AT LARGE: An animal which is off or outside the premises belonging to the owner, keeper, or person having control, custody, or possession of the animal, or not in the company of and under the control of its owner or keeper by means of an adequate leash, pen, cage, coop, vehicle, or other means of confinement or immediate supervision.

WILD ANIMAL: An animal which normally lives in a state of nature and is not ordinarily tame or domesticated and usually not amenable to human habitats. (Ord. 697, December 1991; Ord. 705, July, 1992)

6.04.30 ENFORCEMENT AUTHORITY

Title 6 shall be enforced by the chief of police or any other police officer or any other person designated or appointed by the chief of police. For the purposes of this title, those officers or persons are refereed to as the "animal control official."

6.04.040 ENFORCEMENT COMPLAINT

1. Any person authorized to enforce the provisions of this Title may issue an enforcement complaint to any person found in violation of the provisions of this Title.

2. The issuing official shall cause the enforcement complaint to be delivered to the person alleged to have violated the provisions of this Title. (Ord. 697, December 1991)

6.04.050 INTERFERENCE WITH ANIMAL CONTROL OFFICIAL

1. It is unlawful for any person to interfere in any way with an animal control official engaged in enforcing, seizing, impounding, or lawfully disposing of any animal under the authority of this Title.

2. It is unlawful to release any animal from the custody of the animal control official after such animal has been seized or impounded under the authority of this Title. (Ord. 697, December 1991)

6.04.060 REGISTRATION REQUIREMENTS

1. Every person owning or keeping any animal requiring registration or a license as may be defined by federal, state, county, or municipal law or regulation shall register or license such animal in accordance with the specific regulation or law requiring the registration or license.

2. Registration tags, when required, shall be attached to the animal when such animal is not in the immediate possession or direct supervision of the owner or keeper. (Ord. 697, December 1991)

6.04.070 IMPOUNDMENT: AUTHORITY

1. Any animal control official is authorized to impound any animal found in violation of any of the provisions of this Title.

2. Any animal which bites a person or another animal or which has caused injury to any person or another animal may be summarily seized by any person and, if seized, shall be promptly delivered to the animal control official.

3. Any animal control official may house an animal impounded under the provisions of this Title at a city kennel, a veterinary clinic, or other animal shelter. (Ord. 697, December 1991)

6.04.080 IMPOUNDMENT: NOTICE

1. When the owner of an animal impounded under the provisions of this Title is known, the owner or keeper shall be given notice of the impoundment, either orally or in writing, by personal service, or by mailing to such owner or keeper's last known address.

2. When the owner or keeper of an impounded animal is not known or cannot be contacted, a notice of such impoundment shall be posted in three public places within the city. The notice shall contain a general description of the animal showing breed or common type animal name, sex if known, color and general markings, and shall designate the disposition date of said animal, as provided in this Title, unless sooner redeemed. (Ord. 697, December 1991)

6.04.090 IMPOUNDMENT: REDEMPTION BY OWNER OR KEEPER

1. Owner or keeper of impounded animals shall have three (3) days from the date of notice of impoundment, whether mailed, posted, or delivered orally, to claim the animal if the dog is without a license or identification tag, and at least five (5) days if the dog has a license or identification tag. If the owner or keeper fails to claim the animal within the specified time period, the animal shall be disposed of as provided in this Chapter. (Ord. 807, Nov. 1999)

2. There shall be an impoundment fee charged, the amount of which shall be established by resolution as adopted by the Stayton City Council. (Ord. 867, September 07, 2004; Ord. 905, June 16, 2008)

3. The owner or keeper of an impounded animal may redeem the animal upon payment to the city of the impoundment fee for such animal. In addition, if the code requires registration and the animal is not registered at the time of impoundment, upon redemption such person shall either register the animal, or provide a deposit for registration, the amount of which shall be established by resolution as adopted by the Stayton City Council. (Ord. 867, September 07, 2004; Ord. 905, June 16, 2008)

4. If the animal is impounded at a veterinary clinic or other animal shelter, the owner shall pay, in addition to the impoundment fee, any costs resulting from the impoundment. (Ord. 764, •1, October 1996; Ord. 867, September 07, 2004; Ord. 905, June 16, 2008)

6.04.110 IMPOUNDMENT: DISPOSITION OF ANIMAL

If no person claims or redeems an impounded animal within the time fixed by the applicable notice, such animal shall be sold, given away, destroyed or released to kennel facilities by the animal control official. (Ord. 764, •3, October 1996; Ord. 807, Nov. 1999)

6.04.120 IMPOUNDMENT: SICK OR INJURED ANIMALS

1. Any animal control official who has lawfully seized or impounded an animal under the provisions of this Title and determines that the animal is in apparent need of immediate medical attention due to illness or injury, may authorize the necessary medical attention and/or have the animal destroyed.

2. The animal control official shall make a reasonable effort to locate the owner or keeper of such sick or injured animal before authorizing such medical attention or destruction of the animal.

3. The owner or keeper of such sick or injured animal shall be liable for any costs incurred for medical treatment rendered to the animal and/or for its destruction.

4. If the owner or keeper of such sick or injured animal is not located, the animal may be disposed of as provided in section 6.04.110. (Ord. 697, December 1991)

6.04.130 IMPOUNDMENT: RECORDKEEPING

1. The animal control official shall make a report of each animal impounded.

2. Such report shall indicate the date and time impounded, where seized and where impounded, description of the animal impounded, name and address of the owner or keeper, if known. Upon disposition of the animal, the report shall indicate the name

and address of the person to whom the animal is released, the date of release, or the date it is destroyed. (Ord. 697, December 1991)

6.04.140 OFFENSES

1. No dog, livestock, or poultry shall run at large within the city limits upon any public street or other public place or trespass upon private property not owned or controlled by the owner or keeper of such animal.

2. No domestic or wild animal shall:

   a. Make excessive or unreasonable noise in such a manner as to disturb or annoy any person or deprive any person of peace and quiet, other than the owner or keeper of such animal;

   b. Cause injury to a person, animal, or property, or show a propensity to cause injury to persons, animals, or property;

   c. Chase persons or vehicles;

   d. Injure or kill an animal belonging to a person other than the owner or keeper of such animal;

   e. Chase, injure, or kill any animal raised or kept for use or profit;

   f. Damage property belonging to a person other than the animal's owner or keeper.

3. No person who keeps, possesses, or otherwise maintains any animal shall allow the accumulation of raw or untreated animal manure which creates an offensive odor to occur upon any property, whether public or private.

4. No person shall:

   a. Subject any animal to mistreatment;

   b. Kill any animal under the custody or control of another without legal privilege.

5. The owner, keeper, or person in charge of an animal found to have committed an offense is punishable in accordance with Section 6.04.290. (Ord. 697, December 1991; Ord. 705, July 1992)

6.04.150 DANGEROUS ANIMALS

1. No person shall keep, possess, or otherwise maintain under their control any dangerous, ferocious, or biting animal.

2. "Dangerous, ferocious, or biting animal" includes any such animal which, with a lack of provocation, is likely to injure, attack, or otherwise threaten the lawful presence of any person or animal.

3. In addition to any fines or other penalties provided in this code, the council may order such disposition of any dangerous, ferocious, or biting animal as it considers necessary for the safety or health of the public. (Ord. 697, December 1991)

6.04.160 WILD ANIMALS

1. No person shall keep or possess or otherwise maintain any wild animal within the city limits, except for purposes of public display.

2. "Public display" means keeping in a public place approved by the council for the sole purpose of exhibiting wild animals held in captivity and open to the general public during reasonable hours.

3. No wild animal shall be allowed to run at large or to run at large upon the property of the person authorized to keep, possess, or otherwise control such animal. (Ord. 697, December 1991)

6.04.170 DISPOSITION OF HABITUAL OFFENDERS

In addition to any fines or other penalties provided herein, if an animal has been found to repeatedly violate the provisions herein, the council may order such disposition of the animal as it considers necessary for the safety or health of the public. (Ord. 697, December 1991)

6.04.180 SHELTER REQUIREMENTS

1. The owner or keeper of any animal shall provide adequate shelter for such animal. Adequate shelter means that which provides protection from the meteorological elements.

2. The council may prohibit the housing or keeping of any animal within the city limits when such housing or keeping may impair the public health, welfare, safety, or create a nuisance. The council may direct the animal control official to deliver a written notice to the owner or keeper of such animal, directing the owner or keeper to remove

the animal within seven (7) days from the service of such notice. (Ord. 697, December 1991)

6.04.185 KEEPING OF LIVESTOCK AND/OR POULTRY WITHIN THE CITY LIMITS

1. No person owning, possessing, or having control of livestock, shall keep the animals except in a fenced area and on a lot having an area of at least 32,670 square feet (.75 acre) per animal.

2. No person owning, possessing, or having control of poultry, shall keep the animals except in a fenced area.

3. Fencing used for the purpose of containing livestock, as required by this section, shall not be located within twenty feet (20') of a property boundary line.

4. Fencing used for the purpose of containing poultry, as required by this section, shall not be located within ten feet (10') of a property boundary line.

5. Non-Conforming Use: For livestock being kept on parcels of less than 32,670 square feet (.75 acre) per animal, this section shall not preclude any person from continuing to keep or replace livestock which were being kept within the city limits of the City of Stayton on or before July 1, 1992, provided the animal is in a fenced area and a permit to continue to keep the animal is obtained from the chief of police or his designate prior to September 1, 1992.

6. Cessation of Use: For parcels of less than 32,670 square feet (.75 acres), if a non-conforming use for keeping of the livestock is discontinued for a period of ninety days or more, or if the property comes under different ownership, the keeping of livestock shall cease and may not be resumed. (Ord. 705, July 1992)

6.04.190 DEAD ANIMALS: CARCASS REMOVAL

No person may permit the carcass of any animal kept, possessed, or otherwise maintained under that person's control to remain upon any public street or other public place or upon any private property for over twenty-four (24) hours. (Ord. 697, December 1991)

6.04.200 SUMMARY DESTRUCTION OF CERTAIN ANIMALS

Any animal, whether domestic or wild, which presents an imminent threat of serious physical injury or death to any person or other animal, or which has caused injury or death to any person or other animal, and which, under the immediate circumstances, cannot be captured or impounded as provided in this chapter, may be summarily

destroyed in as humane a manner as is practicable under the existing circumstances. (Ord. 697, December 1991)

6.04.210 RABID ANIMALS

The statutes and regulations of the State of Oregon and Marion County, Oregon shall apply. (Ord. 697, December 1991)

6.04.220 REMOVAL OF ANIMAL WASTE

The owner of every animal shall be responsible for the removal of any solid waste deposited by the owner's animal on public walks or within any public right of way, or in a park or other public place, or on private property not owned by the animal's owner. (Ord. 1019, June 2018)

6.04.230 TO 6.04.280 RESERVED FOR EXPANSION

6.04.290 VIOLATION: PENALTY

A violation of a provision of this chapter is punishable as an infraction by a fine not to exceed Five Hundred ($500.00) dollars. (Ord. 697, December 1991)

TITLE 6. ANIMALS

CHAPTER 6.08

DOG REGISTRATION

SECTIONS

6.08.310 DEFINITIONS

As used in this chapter:

1. **DOG:** Male and female canine.

2. **KEEPER:** Any person, firm, or association having the custody of or authority to control the animal.

3. **KENNEL:** Any lot or premises on which four or more dogs more than six months old are kept. (Ord. 697, December 1991)

6.08.320 REGISTRATION REQUIRED

Every dog that resides within Stayton and that has developed permanent canine teeth or is six months old, whichever occurs first, shall be registered according to the terms and requirements in this Title. The registration year shall be the same as the calendar year. No dog may be registered without proof of rabies inoculation as provided in this Title. (Ord. 697, December 1991)

6.08.330 REGISTRATION FEES

1. The following animal registration fees shall be applicable and payable to the city as of January 1st of each year, and shall be paid no later than March 1st of each year.

a. For each spayed female or neutered male dog for which a veterinarian's certificate of operation for the spaying or neutering of the dog is presented to the city, Thirteen Dollars ($13.00); (Ord. 867, September 07, 2004)

b. For each dog owned by a resident of Stayton who is sixty-five years of age or older as of January 1st of each year, the registration fee shall be Eight Dollars ($8.00) if the dog is shown to be spayed or neutered.

c. For each dog registered by a resident of Stayton who is disabled, "disabled" describing a person who has been classified as or determined to be totally disabled by any state or federal agency, and who presents verification thereof from the classifying agency, the registration fee shall be Five Dollars ($5.00) if the dog is shown to be spayed or neutered, and Ten Dollars ($10.00) if the dog is not spayed or neutered. (Ord. 867, September 07, 2004)

d. No registration fee shall be required for any dog kept by a blind person who uses it as a guide. No registration fee shall be required for any dog kept by a deaf person who uses it as a guide. Accompanying the registration, the applicant shall provide an affidavit verifying that the dog comes within this exemption;

e. For any other dog, Thirty Dollars ($30.00). (Ord. 813, April, 2000; Ord. 867, September 07, 2004)

2. Where a person establishes residence in the city or is the keeper of a dog after January 1st of each year, or where a person is the keeper of a dog who turns six months of age or develops permanent canine teeth, that person shall have thirty (30) days within which to register the dog as provided in this Title. The registration fee shall be prorated on a monthly basis.

3. The keeper of a dog that loses its registration tag shall obtain a replacement. The cost of the replacement is Five Dollars ($5.00) and is valid for the same period of time as the original registration. (Ord. 732, §2, October 1994)

6.08.340 RABIES INOCULATION REQUIRED

The city shall require proof of rabies inoculation and, upon seeing the completed Rabies Vaccination Certificate, shall issue to the owner or keeper a serially numbered tag, the expiration date of which may not exceed the expiration date of immunity by more than two (2) months. (Ord. 764, §4, October 1996)

6.08.350 WAIVER OF RABIES INOCULATION

In the event the City deems that the requirement of a rabies inoculation would potentially cause a health hazard to the animal to be licensed, the requirement may be waived with conditions providing that the rabies inoculation is maintained. (Ord. 887, section 1, March 2006)

6.08.360 TO 6.08.380 RESERVED FOR EXPANSION

6.08.390 VIOLATION: PENALTY

1. Any owner or keeper who fails to register a dog by the dates provided in this chapter shall be assessed a late penalty of five dollars ($5.00) per dog in addition to the applicable regular license fee, and twenty dollars ($20.00) for each enforced late penalty.

2. **ENFORCED LATE PENALTY**: Assessment upon an owner or keeper of a dog who failed in a timely manner to register the dog and was issued a citation for no registration. (Ord. 697, December 1991)

TITLE 8.

HEALTH AND SAFETY

CHAPTERS

CHAPTER 8.04

NUISANCES

SECTIONS

8.04.010 DEFINITIONS

For the purposes of this title, the following words and phrases mean:

ADVERTISING: Any method, procedure, or substance used to announce, present, or display any fact, opinion, or other information by means of pictures, words, or designs, or otherwise, whether written, printed, painted, or in any other way expressed.

AIR POLLUTION: Repealed.

BUILDING OFFICIAL: The individual(s) designated by the City Administrator to administer and enforce the building codes, and inspect buildings.

CESSPOOL: Septic tanks or other subsurface sewage disposal facilities that are in an unsanitary condition or which cause an offensive odor.

CITY ADMINISTRATOR: That official of the City hired by the Mayor/Council under Chapter 2.08 of this Code or the Administrator's designee.

DEBRIS: Accumulations of rubbish, manure, and other refuse that have the potential to affect the health of residents of the City or the cleanliness or visual attractiveness of the area.

DECAYED FOOD: Spoiled or unwholesome food not fit for human consumption.

DISCARDED VEHICLE: Any vehicle which is in one or more of the following conditions:

a. Inoperative
b. Wrecked
c. Dismantled
d. Partially dismantled
e. Abandoned
f. Junked
g. Not displaying a current registration plate from a state Department or Division of Motor Vehicles

"Discarded vehicle" also includes major parts of vehicles, including but not limited to bodies, engines, body parts, transmissions, or rear ends.

ENFORCEMENT OFFICER: The individual designated by the City Administrator to enforce the provisions of this Chapter.

JUNK: Motor vehicle parts, machinery, machinery parts, appliances or parts thereof, iron or other metal, glass, paper, lumber, wood, or other waste or discarded material.

LOUD, DISTURBING NOISES: A sound that creates a plainly audible noise within any dwelling unit which does not contain the source of the sound.

NOXIOUS VEGETATION:

a. Weeds more than 10 inches high;

b. Grass more than 10 inches high and not within the exception stated in subsection 1 of this Chapter;

c. Poison oak;

d. Poison ivy;

e. Blackberry bushes that extend into a public thoroughfare or across a property line;

f. Vegetation that is:

   i. A safety hazard because of the possibility of falling branches;

   ii. A fire hazard because it is near other combustibles;

   iii. A traffic hazard because it impairs the view of a public thoroughfare, otherwise makes use of the thoroughfare hazardous, or does not meet the sight distance triangle requirements contained in SMC Section 17.26.020.4.c) and d); or

g. Dandelions, hawkweed, Queen Ann's lace, tansy ragwort, or other weeds that have gone to seed; or

h. Scotch broom. (Ord. 984, August 2015)

i. Noxious vegetation does not include vegetation that constitutes an agricultural crop unless that vegetation is a health hazard, a fire hazard, or a traffic hazard. (Ord. 977, December 2014)

ODOR: Premises that are in such a state or condition as to cause an offensive odor, or that are in an unsanitary condition.

PERSON IN CHARGE OF PROPERTY: An owner, agent, occupant, lessee, contract purchaser, or other person having possession or control of property or the supervision of any construction project.

PERSON RESPONSIBLE: The persons responsible for abating a nuisance, including:

a. The owner;

b. The person in charge of property; or

c. The person who caused a nuisance to come into or continue in existence.

PLAINLY AUDIBLE SOUND: Any sound that is clearly distinguishable from other sounds, such as but not limited to, amplified speech sufficiently loud to be understood by a person with normal hearing, or when a person with normal hearing can readily discern whether an amplified or reproduced human voice is raised or normal, or any

musical sound sufficiently loud to permit the melody or rhythm to be recognized by a person with normal hearing, or any other sound sufficiently loud to materially affect the ability of a person with normal hearing to understand a verbal communication made in a normal conversational tone from a distance of 10 feet or less.

PRIVIES: An open vault or receptacle for human waste constructed and maintained within the City, except those constructed or maintained in connection with construction projects or outdoor, community gatherings of large groups of people, in accordance with the State Health Division regulations.

PUBLIC PLACE: A building, way, place, or accommodation, whether publicly or privately owned, open and available to the general public.

PUBLIC THOROUGHFARE: A street, alley, bicycle path, pedestrian way, or trail that is open to the public.

REFUSE/RUBBISH: Any material discarded or rejected as useless or worthless.

SLAUGHTERHOUSES: An establishment where animals are killed and processed for meat, where animal byproducts are rendered, or where animal hides are tanned. For purposes of this Chapter, an establishment where livestock are kept in a confined manner shall also be considered a slaughterhouse.

SOUND PRODUCTION OR REPRODUCTION DEVICE: Any radio, stereo, loudspeaker, amplifier, television, tape player, or other similar machine or mechanical or electrical device intended for the production, reproduction, or amplification of sound.

STAGNANT WATER: Water that affords a breeding place for mosquitoes and other insect pests.

SURFACE DRAINAGE: Drainage of liquid wastes from private premises.

VEHICLE: Any device in, upon, or by which any person or property may be transported or drawn upon a public highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

WATER POLLUTION: Repealed. (Ord. 899, October 1, 2007)

WEED: Any plant on Marion County Weed District's list of plants categorized as "Educate and Control" or "Immediate Action / Eradicate." (Ord. 984, August 2015)

8.04.020 PUBLIC HEALTH NUISANCES

No person shall cause or permit on property owned or controlled by that person any nuisance affecting the public health. Cesspools, debris, decayed food, odor, privies, slaughterhouses and other similar establishments, stagnant water, and surface drainage are nuisances affecting the public health and shall be abated as provided in Sections 8.04.240 through 8.04.290. (Ord. 899, October 1, 2007)

8.04.030 ATTRACTIVE NUISANCES

1. No person shall create an attractive nuisance or hazard by:

   a. Maintaining or leaving in a place accessible to children a container with a compartment of more than one and one-half cubic feet capacity and a door or lid which locks or fastens automatically when closed and which cannot be easily opened from the inside, including specifically any used icebox, refrigerator or freezer of any size or shape; or

   b. Being the owner or otherwise having possession of property upon which there is a well, cistern, cesspool, excavation, or other hole of a depth of four feet or more and a top width of twelve inches or more and failing or refusing to cover or fence it with a suitable protective construction.

2. No owner or person in charge of property shall permit on the property:

   a. Unguarded machinery, equipment, or other devices that is attractive, dangerous, and accessible to the public;

   b. Lumber, logs, or piling placed or stored in a manner so as to be attractive, dangerous, or accessible to the public;

   c. An open pit, quarry, cistern, or other excavation without safeguards or barriers to prevent such places from being accessed by the public.

   This subsection shall not apply to authorized construction projects with reasonable safeguards to prevent injury or death to the public. (Ord. 711, November, 1992; Ord. 899, October 1, 2007)

8.04.040 SNOW AND ICE

No owner or person in charge of property, improved or unimproved, abutting on a public sidewalk shall permit:

1. Snow to remain on the sidewalk for a period longer than the first 12 hours after daybreak after the snow has fallen;

2. Ice to remain on the sidewalk for more than 12 hours after daybreak after the ice has formed unless the ice is covered with sand, ashes, or other suitable material to assure safe travel. (Ord. 711, November, 1992)

8.04.050 SCATTERING RUBBISH

No person shall deposit upon public or private property any kind of rubbish, trash, debris, refuse, or any substance that would mar the appearance, create a stench or fire hazard, detract from the cleanliness or safety of the property, or would be likely to injure a person, animal, or vehicle traveling upon a public way. (Ord. 711, November, 1992) (Ord. 977, December 2014)

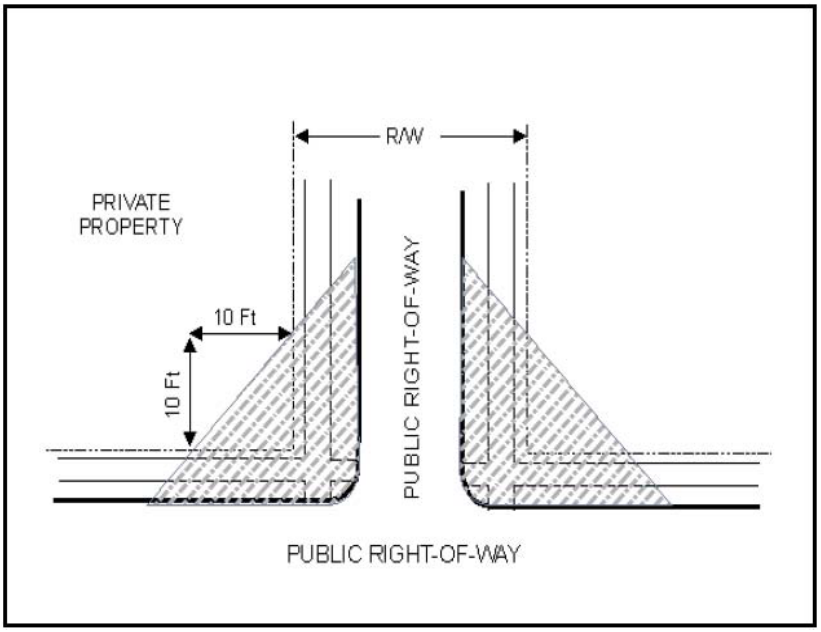
8.04.055 ODOR

No owner or person in charge of property shall conduct an activity which produces a strong and offensive odor perceptible off of the premises. A business is required to utilize air filtration which, to the greatest extent feasible, confines all objectionable odors associated with the facility to the premises. For the purpose of this provision, the standard for judging

"objectionable odors" shall be that of an average, reasonable person with ordinary sensibilities after taking into consideration the character of the neighborhood in which the odor is made and the odor is detected. (Ord. 1040, October 21, 2019)

8.04.060 TREES AND VEGETATION OBSTRUCTING VIEW

1. No owner or person in charge of property that abuts a street or public sidewalk shall permit trees or vegetation on the property to interfere with street or sidewalk traffic.
2. The owner or person in charge of property shall keep all trees and vegetation on the property, including the adjoining parking strip, trimmed to a height of not less than 8 feet above the sidewalk and not less than 10 feet above the roadway. (Ord. 798, May 17, 1999)
3. No owner or person in charge of property shall allow any hedge or other obstructing vegetation within the vision clearance area (also known as the sight distance triangle) described in this Chapter per the requirements contained in SMC Section 17.26.020.4.c) and d).
   a. Repealed.
   b. The vision clearance area shall not contain temporary or permanent obstructions to vision exceeding 24 inches in height above the curb level or street shoulder where there is no curb, except a supporting pillar or post not greater than 12 inches in diameter or 12 inches on the diagonal of a rectangular pillar or post; and, further, excepting utility poles and those posts, poles, tree trunks, street signs, street lights, and traffic control signs.
   c. Vision clearance shall not be required at a height 7 feet or more above the curb level or 7 feet 6 inches above the shoulder of a street that does not have curbs.
   d. The vision clearance provisions of this section shall not be construed as waiving or altering any yard, landscaping or setback requirements that may be required in Title 17 or any other section of this Code.



e. Repealed. (Ord. 899, October 1, 2007)

8.04.070 BARBED WIRE OR ELECTRIC FENCES

1. No owner or person in charge of property shall construct or maintain a barbed wire fence, or permit barbed wire to remain as a part of a fence, within three feet of a sidewalk or public way, except such wire may be placed above the top of other fencing not less than 6 feet high.

2. No owner or person in charge of property shall construct, maintain, or operate an electric fence except to contain livestock permitted under Section 6.04.185. (Ord. 711, November, 1992; Ord. 899, October 1, 2007)

8.04.080 INADEQUATE DRAINAGE

1. No owner or person in charge of property shall cause or permit any water from any ditch, canal, flume, reservoir pipeline, or conduit above or below the ground to leak or flow over or under any premises, public street, sidewalk, or other public property where such leak or flow shall endanger the public health, safety, welfare, or convenience.

2. No owner or person in charge of a building or structure shall cause or permit rainwater, ice, or snow to fall from the building or structure onto a public sidewalk or to flow across the sidewalk. The owner or person in charge of any structure shall install and maintain in proper repair adequate drainpipes or a drainage system, so that any overflow water accumulating on the roof or about the building is not carried across or upon the sidewalk. (Ord. 711, November, 1992; Ord. 899, October 1, 2007)

8.04.090 OBSTRUCTION OF SIDEWALKS AND ALLEYS

1. Except as specifically provided in this section or in Section 5.52 CONDUCTING BUSINESS IN A STREET RIGHT-OF-WAY, no person shall place or maintain any item obstructing a sidewalk or alley that extends more than 36 inches into the public right-of-way. (Ord. 25-002, May 5, 2025)

2. No person may obstruct any portion of a sidewalk, street, or alley with any building material in connection with the alteration or construction of buildings without first obtaining a permit from the City Manager. (Ord. 25-002, May 5, 2025)

3. If obstruction is permitted under subsection 2 of this section, not more than one-third of the street or alley shall be occupied or obstructed with material, and only in front of the property where the building is being altered or constructed.

4. Any person who maintains an obstruction under subsection 2 of this section shall, upon request of the City Manager (Ord. 25-002, May 5, 2025), give written proof of carrying liability insurance to cover any hazard.

5. If a permit is granted to allow obstruction, the person so obstructing shall maintain a substantial temporary sidewalk around the construction. A guard railing and amber light as a danger signal shall be kept at each end of the obstruction during the hours between sunset to sunrise.

6. Nothing in this section shall be construed to prohibit the display of goods and materials upon private property, nor shall it apply to persons receiving or discharging goods or

merchandise across a sidewalk or alley in accordance with all applicable laws. (Ord. 711, November, 1992; Ord. 899, October 1, 2007)

8.04.100 OBSTRUCTING WATERWAYS OR PUBLIC THOROUGHFARES

No person shall interfere with, obstruct, create a congested condition or render dangerous for passage any stream, canal, waterway, or any public park, square, sidewalk, public way, alley, street, or highway. (Ord. 727, February 1993. '1; Ord. 899, October 1, 2007)

8.04.110 UTILITY WIRES STRUNG TOO LOW

No wires used for the transmission of electricity or for any communication purposes shall be strung less than 15 feet above the surface of the ground. (Ord. 711, November, 1992; Ord. 899, October 1, 2007)

8.04.120 DAMAGED, DERELICT AND DANGEROUS STRUCTURES

1. No property shall contain any dangerous or derelict structure as described in this Chapter. All such buildings or structures shall be repaired or demolished.

2. Derelict Structures

a. A derelict structure is any unoccupied nonresidential building, structure, or portion thereof that meets any of the following criteria or any residential building which is at least 50% unoccupied and meets any of the following criteria:

i. Has been ordered vacated by the Enforcement Officer pursuant to SMC Section 8.04.235.2; or,

ii. Has been issued a notice of infraction by the Enforcement Officer pursuant to SMC Section 8.04.230; or,

iii. Is unsecured; or,

iv. Is boarded unless the boarding is required by the Enforcement Officer; or,

v. Has, while vacant, had a nuisance declared by the City on the property upon which it is located.

b. Any property which has been declared by the Building Official to include a derelict structure shall be considered in violation of this Chapter until:

i. The structure has been lawfully occupied;

ii. The structure has been demolished and the lot cleared and graded after approval is issued by the City, with final inspection and approval by the Building Official, or,

iii. The owner has demonstrated to the satisfaction of the Building Official that the property is free of all conditions causing its status as a derelict structure. (Ord. 899, October 1, 2007)

3. Dangerous Structures

a. Any structure which through damage, neglect or lack of maintenance, has any or all of the following conditions or defects to the extent that life, health, property or safety of the public or the structure's occupants are endangered, shall be deemed to be a dangerous structure, declared a nuisance, and such condition or defects shall be abated pursuant to SMC Section 8.04.230.

i. *High loads*. Whenever the stress in any materials, member, or portion of a structure, due to all dead and live loads, is more than 1-1/2 times the working stress or stresses allowed by the current Oregon building codes for new buildings of similar structure, purpose, or location.

ii. *Weakened or unstable structural members or appendages.*

a. Whenever any portion of a structure has been damaged by fire, earthquake, wind, flood, or by any other cause, to such an extent that the structural strength or stability is materially less than it was before such catastrophe and is less than the minimum requirements of the current Oregon building codes for new buildings of similar structure, purpose, or location; or

b. Whenever appendages including parapet walls, cornices, spires, towers, tanks, statuaries, or other appendages or structural members which are supported by, attached to, or part of a building, and which are in a deteriorated condition or otherwise unable to sustain the design loads which are specified in the current Oregon building codes.

iii. *Buckled or leaning walls, structural members*. Whenever the exterior walls or other vertical structural members list, lean, or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base.

iv. *Vulnerability to earthquakes, high winds*

a. Whenever any portion of a structure is wrecked, warped, buckled, or has settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction; or

b. Whenever any portion of a building, or any member, appurtenance, or ornamentation of the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one half of that specified in the current Oregon building codes for new buildings of similar structure, purpose, or location without exceeding the working stresses permitted in the current Oregon building codes for such buildings.

v. *Insufficient strength or fire resistance*. Whenever any structure which, whether or not erected in accordance with all applicable laws and ordinances:

a. Has in any non-supporting part, member, or portion, less than 50% of the strength or the fire-resisting qualities or characteristics required by law for a newly constructed building of like area, height, and occupancy in the same location; or

b. Has in any supporting part, member, or portion less than 66% of the strength or the fire-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height, and occupancy in the same location.

vi. *Risk of failure or collapse*

a. Whenever any portion or member or appurtenance thereof is likely to fail, or to

become disabled or dislodged, or to collapse and thereby injure persons or damage property; or

b. Whenever the structure, or any portion thereof, is likely to partially or completely collapse as a result of any cause, including but not limited to:

1. Dilapidation, deterioration, or decay;

2. Faulty construction;

3. The removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such structure; or

4. The deterioration, decay, or inadequacy of its foundation.

vii. *Excessive damage or deterioration*. Whenever the structure exclusive of the foundation:

a. Shows 33% or more damage or deterioration of its supporting member or members;

b. 50% damage or deterioration of its non-supporting members; or

c. 50% damage or deterioration of its enclosing or outside wall coverings.

viii. *Demolition remnants on site*. Whenever any portion of a structure, including unfilled excavations, remains on a site for more than 30 days after the demolition or destruction of the structure;

ix. *Fire hazard*. Whenever any structure is a fire hazard as a result of any cause, including but not limited to dilapidated condition, deterioration, or damage; inadequate exits; lack of sufficient fire-resistive construction; or faulty electric wiring, gas connections, or heating apparatus.

x. *Other hazards to health, safety, or public welfare*

a. Whenever, for any reason, the structure, or any portion thereof, is manifestly unsafe for the purpose for which it is lawfully constructed or currently is being used; or

b. Whenever a structure is structurally unsafe or is otherwise hazardous to human life, including but not limited to whenever a structure constitutes a hazard to health, safety, or public welfare by reason of inadequate maintenance, dilapidation, unsanitary conditions, obsolescence, fire hazard, disaster, damage, or abandonment.

xi. *Public nuisance*. Whenever the structure has been so damaged by fire, wind, earthquake or flood or any other cause, or has become so dilapidated or deteriorated as to become an attractive nuisance or a harbor for vagrants or criminals.

xii. *Chronic dereliction*. Whenever a derelict structure remains unoccupied for a period in excess of 6 months or period less than 6 months when the structure or portion thereof constitutes an attractive nuisance or hazard to the public.

xiii. *Violations of codes, laws*. Whenever any structure has been constructed, exists, or is maintained in violation of any specific requirement or prohibition applicable to such structure provided by the building regulations of this City, as specified in the

current Oregon building codes or any law or ordinance of this State or City relating to the condition, location, or structure or buildings. (Ord. 899, October 1, 2007)

4. Abatement of Dangerous Structures

All structures or portions thereof which are determined after inspection by the Building Official to be dangerous as defined in this Chapter are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedures specified herein. If the Building Official determines that a structure is dangerous, as defined by this Chapter, the Enforcement Officer shall commence proceedings to cause the repair, vacation or demolition of the structure. (Ord. 899, October 1, 2007)

8.04.130 NOXIOUS VEGETATION

1. No owner or person in charge of property shall allow noxious vegetation to be on the property or in the public right-of-way abutting on the property. An owner or person in charge of property shall cut down or destroy grass, shrubbery, brush, bushes, weeds, or other noxious vegetation as often as needed to prevent them from becoming noxious vegetation. (Ord. 977, December 2014)
2. Between March 1st and April 15th of each year, the City Administrator may publish three times, in a newspaper of general circulation in the City, a copy of subsection 1 as a notice to all owners and persons in charge of property of the duty to keep their property free from noxious vegetation. The notice shall state that the City is willing to abate the nuisance on a particular parcel of property at the request of the owner or person in charge of the property for a fee sufficient to cover the City's abatement costs. The notice shall also state that, in the absence of request, the City intends to abate all nuisances 10 or more days after the final publication of the notice and to charge the cost of doing so to the owner or the person responsible for the property, or on the property itself.
3. In lieu of providing notice as provided in subsection 2 of this section, between March 1st and April 15th of each year, the City Administrator may obtain a list of property owners within the City and may then mail a notice to each listed property owner. The notice shall include a copy of subsection 1 advising property owners of their duty to keep their property free from noxious vegetation. The notice shall also state that the City is willing to abate the nuisance on a particular parcel of property for a fee sufficient to cover the City's abatement costs. The notice shall also state that, in the absence of such request, the City intends to abate all such nuisances at any time and the City will charge the cost of abating the nuisance on a particular parcel of property to the owner or the person responsible for the property, or on the property itself.
4. During any time of each year, the City Administrator may provide notice for abatement of noxious vegetation as provided in SMC Section 8.04.240.
5. If the notices provided for in subsections 2 or 3 are used, they shall be in lieu of the notice required by Section 8.04.240. (Ord. 711, November, 1992; Ord. 899, October 1, 2007)

8.04.140 NOISE AND VIBRATIONS

1. No person shall make, assist in making, continue, or cause to be made any loud, disturbing or unnecessary noise which either annoys, disturbs, injures or endangers the comfort, repose, health, safety or peace of others between the hours of 10:00 p.m. and 7:00 a.m. except as otherwise provided. (Ord. 773, 4 August, 1997)

2. Loud, disturbing and unnecessary noises include, but are not limited to:

   a. The keeping of any animal which, by causing frequent or continued noise, disturbs the comfort and repose of any person in the vicinity.

   b. The use of a vehicle or engine, either stationary or moving, so out of repair, loaded, or operated as to create any loud or unnecessary grating, grinding, rattling, or other noise.

   c. The sounding of a horn or signaling device on a vehicle on a street, public place, or private place, except as a necessary warning of danger.

   d. Repealed. (Ord. 899, October 1, 2007)

   e. The use of a mechanical device operated by compressed air, steam, or otherwise, unless the noise created thereby is effectively muffled.

   f. The erection, including excavation, demolition, alteration, or repair of a building in residential districts other than between the hours of 7:00 a.m. and 6:00 p.m., except in case of urgent necessity in the interest of the public welfare and safety, and then only with permit granted by the City Administrator for a period not to exceed 10 days. The permit may be renewed for periods of five days while the emergency continues to exist. If the City Administrator determines that the public health, safety, and welfare will not be impaired by the erection, demolition, alteration, or repair of a building between the hours of 6:00 p.m. and 7:00 a.m., and if the City Administrator shall further determine that loss or inconvenience would result to any person unless the work is permitted within those hours, the City Administrator may grant permission for such work to be done within specified hours between 6:00 p.m. and 7:00 a.m., upon application therefore being made at the time the permit for the work is awarded or during the progress of the work. The owner of property may do work on property actually occupied by the owner between the hours of 6:00 p.m. and 10:00 p.m. without obtaining a permit.

   g. The use of a gong or siren upon a vehicle other than an emergency services vehicle except when used as part of a community function such as a parade or other special promotion for which a permit has been issued under SMC Chapter 10.36.

   h. The creation of loud or disturbing noises on a street adjacent to a school, institution of learning, church, or court of justice, while the same are in use, or on a street adjacent to a hospital, nursing home, or other institution for the care of the sick or infirm, which interferes with the safe operation of such institution or disturbs or unduly annoys occupants.

   i. The discharge in the open air of the exhaust of a steam engine, internal combustion engine, motorboat, or motor vehicle, except through muffler or other device which will effectively prevent loud or explosive noises.

j. The use or operation of an automatic or electric piano, phonograph, radio, television, loudspeaker, or any instrument for sound producing, or any sound production device so loudly as to disturb persons in the vicinity thereof, or in such a manner as renders the use thereof a nuisance. However, upon application to the Chief of Police, permits may be granted to responsible persons or organizations for the broadcast or amplification of programs of music, news, speeches, or general entertainment as a part of a national, state, or municipal event, public festivals, or outstanding events of a noncommercial nature.

k. The making of a noise by crying, calling, or shouting or by means of a whistle, rattle, bell, gong, clapper, horn, hammer, drum, musical instrument, or other device for the purpose of advertising goods, wares, or merchandise, attracting attention, or inviting patronage of a person to a business.

l. The conducting, operating, or maintaining of a commercial or industrial business within 100 feet of a private residence, apartment, rooming house, or hotel in such manner as to cause loud or disturbing noises to be emitted there from between the hours of 10:00 p.m. and 7:00 a.m.

3. No person shall make, assist in making, continue, or cause to be made any loud, disturbing, or unnecessary noise which either annoys, disturbs, injures, or endangers the comfort, repose, health, safety or peace of others at any time in the following manner: (Ord. 773, August 4, 1997)

a. The use or operation of any sound production or reproduction device, car alarm or horn on public property or on a public right-of-way so as to cause a plainly audible sound fifty feet or more from such device, except as allowed by permits in SMC section 2, subsection j. or in the case of an actual emergency. (Ord. 711, November, 1992; Ord. 773, August 4, 1997)

b. The operation, or to permit the use or operation of any device designed for sound production or reproduction, including, but not limited to any radio, television set, musical instrument, phonograph, loud speaker, bell, chime, horn, in such a manner as to cause a noise disturbance and as defined in SMC Section 8.04.140.2.d and k, except as allowed by permits in SMC Section 8.04.140.2.j, so as to be plainly audible within any dwelling unit, church, temple, synagogue, business, day care center or school; which is not the source of the sound. The sources of noise within the City industrial zones are exempt from this SMC section 8.04.150 (3).(Ord. 773, 4 August, 1997; Ord. 899, October 1, 2007)

8.04.150 POSTED NOTICES

No person shall affix a sign, placard, bill, or poster upon personal or real property, private or public, without first obtaining permission from the owner thereof or from the proper public authority. (Ord. 711, November, 1992)

8.04.160 ADVERTISING: PUBLIC PROPERTY, PROHIBITION

1. Except as otherwise specifically permitted, no person may: Place, display, scatter, or distribute any advertising matter or erect, place, or display any structure or device which is used to display advertising matter within any public street right of way, or other public thoroughfare except on the City-provided cables on N First Ave between Cedar and

Regis Streets in accordance with SMC Section 17.20.140.3.l and sidewalk signs in the Downtown Zones as allowed in accordance with SMC Title 17.20.140.9-A.

Attach any advertising matter to any tree, pole, or post situated on any public property within the City. (Ord. 711, November, 1992; Ord. 899, October 1, 2007) (Ord. 977, December 2014)

8.04.170 ADVERTISING: PRIVATE PROPERTY, PROHIBITION

No person may display any advertising matter on or across any private property within the City without the express consent of the owner or person in charge of such property. (Ord. 711, November, 1992; Ord. 899, October 1, 2007)

8.04.180 ADVERTISING: PUBLIC PROPERTY, EXCEPTIONS

1. The City Administrator may permit any person to display or distribute advertising on City-owned property for meetings or entertainment. If the request is denied, the applicant may appeal to the City Council.
2. Any sign or device permitted under this Section must conform to standards in the Oregon Structural Specialty Code as adopted by Marion County, where such standards are applicable.
3. Nothing in SMC Sections 8.04.170 through 8.04.190 of this Chapter shall prohibit the proper display of notices of any election to be held by the federal or state governments or any subdivision thereof, or of notices of judicial sales, or any other notices or advertisements issued or displayed pursuant to law/code or ordinance. (Ord. 711, November, 1992; Ord. 899, October 1, 2007) (Ord. 977, December 2014)

8.04.190 ADVERTISING: REMOVAL

The Police Chief or designate may immediately remove and dispose of any advertising matter or sign or other device displayed or erected within the City in violation of any of the terms of this Chapter. (Ord. 711, November, 1992; Ord. 899, October 1, 2007)

8.04.200 JUNK ACCUMULATION

1. No person shall keep any junk outdoors on any street, lot, or premises, or in a building that is not wholly or entirely enclosed, except doors used for ingress and egress.
2. This section shall not apply to junk kept by a junk dealer licensed under SMC Chapter 5.36. (Ord. 711, November, 1992; Ord. 899, October 1, 2007)

8.04.210 DISCARDED VEHICLES

1. No person shall store or permit the storing of a discarded vehicle on any private property for more than seventy-two hours, unless it is completely enclosed within a building or in a space entirely enclosed by a solid fence, hedge, or screen, not less than 6 feet in height, or unless it is in connection with a business enterprise dealing in junked vehicles lawfully conducted within the City.
2. In addition to or in lieu of the procedures contained in SMC Sections 8.04.240 through 8.04.290 for abating nuisances, vehicles found in violation of subsection 1 of this section may be impounded and disposed of in accordance with the applicable state law for vehicles abandoned in public places. (Ord. 711, November, 1992; Ord. 899, October 1,

2007)

8.04.220 UNENUMERATED NUISANCES

1. The acts, conditions, or objects, specifically enumerated and defined in SMC Sections 8.04.020 through 8.04.210 are declared public nuisances, and such acts, conditions or objects may be abated by any of the procedures set forth in Sections 8.04.240 through 8.04.290.
2. In addition to the nuisances specifically enumerated in this Chapter, every other thing, substance or act which is determined by the Council to be injurious or detrimental to the public health, safety or welfare is declared a nuisance and may be abated as provided in this Chapter. (Ord. 711, November, 1992; Ord. 899, October 1, 2007)

8.04.230 ABATEMENT: NOTICE

1. If satisfied that a nuisance exists, the Enforcement Officer shall notify the property owner by registered or certified mail at the address of record in the Marion County Assessor's Office of the nuisance conditions, directing the person responsible to abate the nuisance.
2. The notice to abate shall contain:
    a. A description of the real property, by street address or otherwise, on which the nuisance exists.
    b. A direction to abate the nuisance within 10 days from the date of the notice.
    c. A description of the nuisance.
    d. A statement that, unless the nuisance is removed, the City may abate the nuisance and the cost of the abatement will be charged to the person responsible.
    e. A statement that failure to abate a nuisance may warrant imposition of a fine.
    f. A statement that the person responsible may protest the order to abate by giving written notice to the City Administrator within 10 days from the date of the notice.
3. If the person responsible is not the owner, an additional notice shall be served on the owner, whose name and address appear on the County tax records, stating that the cost of abatement not paid by the person responsible may be assessed to and become a lien on the property.
4. If there is an inaccuracy in the name or address of the person responsible or property owner it shall not affect the validity of the notice. (Ord. 711, November, 1992; Ord. 899, October 1, 2007) (Ord. 977, December 2014)

8.04.235 ABATEMENT OF DANGEROUS STRUCTURES.

All structures or portions thereof which are determined after inspection by the Building Official to be dangerous as defined in this Chapter are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures specified herein. If the Building Official determines that

a structure is dangerous, as defined by this Chapter, the Enforcement Officer shall commence proceedings to cause the repair, vacation or demolition of the structure.

1. Notice of Status as Derelict or Dangerous Structure

   a. When the Building Official determines that a structure is a derelict or dangerous structure, the Enforcement Officer shall give notice of the infraction to the owner pursuant to this Chapter. Additional notice to other affected persons, such as tenants and holders of a security interest shall be given. In addition to the notice required by SMC Section 8.04.230, the Enforcement Officer shall give the statement of actions required to cure or remedy the condition and, if necessary, the order to vacate described in SMC Section 8.04.235.2.

   b. Statement of Actions Required

      i. Notice of the statement of action shall be given in conjunction with the notice of infraction pursuant to SMC Section 8.04.230.

      ii. The statement of the action required to cure or remedy a condition giving rise to classification of a structure as derelict or dangerous shall include the following:

         (a) If the Building Official has determined that the building or structure must be repaired, the statement shall require that all required permits be secured and the work physically commenced within such time from the date of the statement and completed within such time as the Enforcement Officer shall determine is reasonable under all of the circumstances, but no more than 10 days, or the building or structure be demolished.

         (b) If the Building Official has determined that the building or structure must be vacated, the statement shall order that the building or structure shall be vacated within a time certain from the date of the statement as determined by the Enforcement Officer to be reasonable, but no more than 7 days.

         (c) If the Building Official has determined that

            (1) the building or structure is vacant,

            (2) the building or structure is structurally sound and does not present a fire hazard, and

            (3) the building or structure has presented or is likely to present a danger to individuals who may enter the building or structure even though they are unauthorized to do so, the statement shall require that the building or structure be secured against unauthorized entry by means which may include but are not limited to the boarding up of doors and windows.

         (d) If the Building Official has determined that the building or structure must be demolished, the statement shall order that the building be vacated within such time as the Enforcement Officer shall determine is reasonable from the date of the statement; that all required permits be secured from the date of the statement, and that the demolition be

completed within such time as the Enforcement Officer shall determine is reasonable.

(e) Statements advising that if any required repair or demolition work (without vacation also being required) is not commenced within the time specified, the Enforcement Officer will order the building vacated and posted to prevent further occupancy until the work is completed, and may proceed to cause the work to be done and charge the costs thereof against the property or its owners.

2. Notice of Unsafe Occupancy

a. Posting Notice. In conjunction with an order to vacate, a notice shall be posted at or upon each exit of the building and shall be in substantially the following form:

DO NOT ENTER

UNSAFE TO OCCUPY

It is a violation of Chapter 8.04 of the Stayton Municipal Code to enter or occupy this building or to remove or deface this Notice.

Enforcement Officer

City of Stayton

_____

b. Compliance

i. Upon an order to vacate and the posting of an unsafe building notice, no person shall remain in or enter any building which has been so posted, except that entry may be made to repair, demolish or remove such building under permit.

ii. No person shall remove or deface any such notice after it is posted until the required repairs, demolition or removal have been completed and either a final inspection has been conducted in the case of residential structure or a certificate of occupancy issued pursuant to the provisions of the building code ordinance. (Ord. 899, October 1, 2007)

8.04.240 ABATEMENT: PROTEST HEARING.

1. Within the time limit set by the notice under SMC section 8.04.230 or 8.04.235, the person responsible shall remove the nuisance or show that no nuisance exists.

2. A person responsible, protesting that no nuisance exists, shall file with the City Administrator a written statement that specifies the basis for so protesting.

3. The statement shall be referred to the Council as a part of its regular agenda at its next succeeding meeting. At the time set for consideration of the abatement, the person protesting may appear and be heard by the Council. The Council shall determine whether or not a nuisance exists, or whether abatement of any nuisance will work a hardship on the property owner or person in charge of property out of proportion to the benefit to the public. Council determinations shall be required only in those cases where a written statement has been filed as provided herein.

4. If the Council determines that a nuisance does exist and that abatement will not work an unreasonable hardship, the person responsible shall abate the nuisance within 10 days after the Council determination, or within such other time limit as may be set by the Council. (Ord. 711, November, 1992; Ord. 899, October 1, 2007)

8.04.250 ABATEMENT: JOINT RESPONSIBILITY

If more than one person is a person responsible, they shall be jointly and severally liable for abating the nuisance, or for the costs incurred by the City in abating the nuisance. (Ord. 711, November, 1992; Ord. 899, October 1, 2007)

8.04.260 ABATEMENT BY CITY: PROCEDURE

1. If, within the time allowed, the nuisance has not been abated by the person responsible, the Council may cause the nuisance to be abated.
2. The Enforcement Officer has the right at reasonable times to enter into or upon the property to investigate or cause the removal of a nuisance in accordance with SMC Chapter 1.24.
3. The person charged with removing any nuisance shall use all reasonable care so as to do a minimum of damage to any ornamental grass or bushes or any structure or other item not the subject of the abatement.
4. The City Administrator shall keep an accurate record of the expense incurred by the City in physically abating the nuisance and shall include therein a charge of $100 or 10% of those expenses, whichever is greater, for administrative overhead.
5. The cost of any abatement by the City shall be paid from the general fund, and all income resulting from the enforcement of SMC Section 8.04.280 and the collection of such costs shall be credited to said fund. (Ord. 711, November, 1992; Ord. 899, October 1, 2007) (Ord. 977, December 2014)

8.04.270 ABATEMENT BY CITY: ASSESSMENT OF COSTS

1. The City Administrator shall deliver, by personal service or by mail, both regular and certified mail (return receipt requested), to the person responsible and to the owner a notice stating:
    a. The total cost of abatement, including the administrative overhead;
    b. That the cost as indicated will be assessed to and become a lien against the property unless paid within thirty days from the date of the notice.
    c. That if the person responsible objects to the cost of the abatement as indicated, that person may file a notice of objection with the City Administrator not more than 10 days from the date of the notice.
2. If the costs of the abatement are not paid within thirty days from the date of the notice an assessment of the costs as stated shall then be entered in the docket of City liens against the property from which the nuisance was removed or abated.
3. The lien shall be enforced in the same manner as liens for street improvements are enforced and shall bear interest at the rate of 9% per year. The interest shall be computed from the date of entry of the lien in the lien docket.

4. If there is an inaccuracy in the name of the owner or person responsible, if such persons do not receive the notice of the proposed assessment, the assessment shall remain a valid lien against the property.

8.04.280 SUMMARY ABATEMENT

The procedure provided by SMC Sections 8.04.240 through 8.04.270 is not exclusive, but is in addition to procedures provided by other sections of this Chapter for the removal of nuisances, and the Chief of Police or the City Administrator may proceed summarily to abate a health or other nuisance which unmistakably exists, and which imminently endangers human life or property. (Ord. 711, November, 1992; Ord. 899, October 1, 2007)

8.04.290 ABATEMENT AS ADDITIONAL REMEDY

The abatement of a nuisance is not a penalty for violating this Chapter, but is an additional remedy. The imposition of a penalty does not relieve a person of the duty to abate the nuisance; however, abatement of a nuisance within the time set by the notice to abate, or if a written protest has been filed, abatement within 10 days of Council determination that a nuisance exists, will relieve the person responsible from the imposition of any fine for such nuisance. (Ord. 711, November, 1992; Ord. 899, October 1, 2007)

8.04.300 RESERVED FOR EXPANSION

8.04.310 REGISTRATION OF FORECLOSED RESIDENTIAL PROPERTY

1. Definitions. As used in this section:
    a. "Foreclosed residential real property" means residential property, as defined in ORS 18.901, that an owner obtains as a result of foreclosing a trust deed on the residential property; or receiving a judgement that forecloses a lien on the residential property.
    b. "Neglect" means:
        i. To fail or a failure to maintain the buildings, grounds or appurtenances of foreclosed residential real property in such a way as to allow:
            1. Growth of noxious vegetation, as defined in Section 8.04.130, that diminishes the value of adjacent property;
            2. Trespassers or squatters to remain on the foreclosed residential real property or in a structure located on the foreclosed residential real property;
            3. Mosquito larvae or pupae to grow in standing water on the foreclosed residential real property; or,
            4. Other conditions on the foreclosed residential real property that cause or contribute to causing a public nuisance.
        ii. To fail or a failure to monitor the condition of foreclosed residential real property by inspecting the foreclosed residential real property at least once

every 30 days with sufficient attention so as to prevent, or to identify and remedy, a condition described in subsection i above.

c. "Owner" means a person, other than the City of Stayton, that forecloses a trust deed by advertisement and sale under ORS 86.735 or by suit under ORS 88.010.

2. Owner's Responsibility

a. An owner may not neglect the owner's foreclosed residential real property during nay period in which the foreclosed residential real property is vacant.

b. An owner shall provide the owner's name or the name of the owner's agent to the City Planner.

c. An owner shall post a durable notice in a conspicuous location on the foreclosed residential real property that lists a telephone number for the owner that a person may call to report a condition of neglect. The owner shall replace the notice if the notice is removed from the foreclosed residential real property during a period when the foreclosed residential real property is vacant.

d. An owner or the agent of an owner shall identify the owner of the foreclosed residential real property to the City Planner and shall provide to, and maintain with, the Planning Department current contact information during a period when the foreclosed residential real property is vacant.

3. Notice of Violation

a. If the Enforcement Officer finds a violation of subsection 2.a above, the Enforcement Officer shall notify the owner in writing of the foreclosed residential real property that is the subject of the violation and in accordance with paragraph 3.b or 3.c below, as appropriate, shall specify a time within which the owner must remedy the condition of neglect that is the basis for the Enforcement Officer's finding.

b. The Enforcement Officer shall allow the owner not less than 30 days to remedy the violation unless the Enforcement Officer makes a determination under paragraph 3.c below and shall provide the owner with an opportunity to contest the Enforcement Officer's finding at a hearing. The owner must contest the Enforcement Officer's finding within 10 days after the City Planner notifies the owner of the violation.

c. If the Enforcement Officer determines that a specific condition of the foreclosed residential real property constitutes a threat to public health or safety, the Enforcement Officer may require an owner to remedy the specific condition in less than 30 days, provided that the Enforcement Officer specifies in the written notice the date by which the owner must remedy the specific condition. The Enforcement Officer may specify in the written notice different dates by which the owner must remedy separate conditions of neglect on the foreclosed residential real property.

d. After the Enforcement Officer allows an owner the time specified in subsection 3.b above or makes a determination under subsection 3.c above, the Enforcement Officer shall follow the procedures under Sections 8.04.260 through 8.04.290 above for abatement of the nuisance conditions. (Ord. 956, September 3, 2014)

8.04.320 TO 8.04.360 RESERVED FOR EXPANSION

8.04.370 OCCUPANCY OF RESIDENTIAL PROPERTY AFTER NOTICE OF VIOLATION

1. If a notice of violation of SMC Section 8.04.120 has been issued, and if the affected dwelling unit(s) is or becomes vacant, it shall be unlawful to reoccupy or permit re-occupancy of the unit(s) for residential purposes until the necessary permits are obtained, corrections made, and permit inspection approvals given.
2. Notwithstanding SMC Subsection 8.04.370.1, the Enforcement Officer may permit re-occupancy of the dwelling unit if in the Building Official's opinion, all nuisance conditions have been addressed and rectified. (Ord. 899, October 1, 2007)

8.04.380 INTERFERENCE WITH REPAIR, DEMOLITION, OR ABATEMENT PROHIBITED.

It is unlawful for any person to obstruct, impede, or interfere with any person lawfully engaged in:

1. The work of repairing, vacating, warehousing, or demolishing any structure pursuant to the provisions of this Chapter;
2. The abatement of a nuisance pursuant to the provisions of this Chapter.
3. The performance of any necessary act preliminary to or incidental to such work as authorized by this Chapter or directed pursuant to it.

8.04.390 VIOLATION: PENALTY

1. Any person, firm, or corporation who violates any provision of this Chapter is punishable upon conviction by a fine as provided in subsection 2 of this section. This penalty may be assessed against the owner and the person in charge of the property. Each day that the violation persists after notification shall be deemed as a separate offense.
2. A violation of a provision of this Chapter is punishable by a fine approved by Council Resolution. (Ord. 899, October 1, 2007) (Ord. 977, December 2014)

CHAPTER 8.08

PUBLIC ALARM SYSTEMS

SECTIONS

8.08.010 TITLE OF PROVISIONS

This chapter shall be known as the "Public Alarm Code." (Ord. 711, November, 1992)

8.08.020 PURPOSE OF PROVISIONS

1. The purpose of this chapter is to protect the Public Safety Answering Point (PSAP) and Emergency Services from misuses of automatic emergency alarm reporting systems.

2. The Code governs fire, medical, burglar, and hazard monitoring alarm systems, requires permits, establishes fees, provides for revocation of permits, and provides for punishment of violations. (Ord. 711, November, 1992)

8.08.030 DEFINITIONS

As used in this chapter, the following mean:

ALARM SYSTEM: A device or system of interconnected devices, including hardware and related accessories, designed to give warning of a fire, burglary, robbery, medical emergency, or other hazardous conditions occurring on the protected premises, except residential smoke detectors which are not connected to a receiving panel at an alarm reception point and does not emit sound outside the residence.

AUTOMATIC DIALER: A device programmed to select a telephone number and deliver a warning message or signal over standard telephone lines.

DIGITAL COMMUNICATOR: An automatic dialer specially designed and programmed to deliver an alarm signal to compatible receiving equipment located at an alarm reception point by telephone line.

CITY: City of Stayton, Oregon

PUBLIC SAFETY ANSWERING POINT (PSAP): The emergency communication center also known as the 911 Center that is used to receive transmissions and general information from the public to be dispatched to the respective emergency services agencies utilizing the center.

FALSE ALARM: Any activation of any alarm system which results in the dispatch of emergency personnel to the protected premises where they are unable to discover any evidence of an emergency condition, but it does not include an alarm signal caused by violent conditions or nature of other extraordinary circumstances not reasonably subject to control by the alarm user.

HARD-WIRE SYSTEM: An alarm system that detects and transmits alarms using direct leased lines to a receiving panel at an alarm reception point.

LOCAL ALARMS: Systems or devices that sound audibly on the premises of the user, but are not connected to a receiving panel at an alarm reception point.

PROTECTED PREMISES: All of that contiguous area including buildings protected by a single alarm system and under common ownership and use.

PERSONS: Any alarm user, be it a natural person, firm, partnership, association, corporation, company, utility, or organization, profit or nonprofit, public or private. (Ord. 711, November, 1992)

8.08.040 GENERAL SYSTEM REQUIREMENTS

1. No alarm system shall be installed, used, or maintained in violation of any of the requirements of adopted provisions of the Uniform Fire Code or of any applicable statute, law, or administrative regulation of the State or of the City.

2. Any alarm user required by federal, state, county, or municipal , regulation, rule,

code, or ordinance to install, maintain, and operate an alarm system shall be subject to this chapter. (Ord. 711, November, 1992)

8.08.050 DIGITAL COMMUNICATOR RESTRICTIONS

Any alarm system that incorporates a digital communicator shall be programmed to select an emergency communication center phone line specifically designed for this purpose. No automatic dialer shall be programmed to select the emergency communication center trunk phone lines. (Ord. 711, November, 1992)

8.08.060 TRAINING REQUIREMENTS

The holder of an alarm system permit shall be responsible for training and retraining of employees, family members, and other persons who make regular use of the protected premises and who may, in the normal course of their activities, be in a position to accidentally trigger an alarm device. Such training shall include procedures to avoid accidental alarms and steps to follow in the event the system is accidentally triggered. (Ord. 711, November, 1992)

8.08.070 MAINTENANCE AND REPAIR RESPONSIBILITY

The holder of an alarm system permit shall, at all times, be responsible for the proper maintenance and repair of the system and for the repair or replacement of any component, method of installation, design feature, or like condition which may give rise to a false alarm. (Ord. 711, November, 1992)

8.08.080 TESTING OF SYSTEMS

All alarm system testing shall be conducted in accordance with the following: All service and tests of any alarm system that may result in transmission of alarm signals to the emergency communication center shall be conducted only after notification to the emergency communication center of the intention to conduct such service or tests. Failure to so notify will result in a false alarm assessment. (Ord. 711, November, 1992)

8.08.090 FIRE DRILLS: PRIOR NOTIFICATION REQUIRED

Fire drills that incorporate activation of the alarm system with resultant transmission of alarm signals to the emergency communication center shall not be conducted without prior notification to the emergency communication center. (Ord. 711, November, 1992)

8.08.100 RESPONSIBILITY FOR ALARM DEACTIVATION

All permit holders shall furnish and update names and phone numbers of at least two responsible persons having access to the premises who may be notified to assist personnel in the event the alarm is activated. (Ord. 711, November, 1992)

8.08.110 SOUND LIMITATIONS

Local alarms other than fire alarms shall not make a sound similar to that of sirens on emergency vehicles or of civil defense warning systems. Owners of local alarms shall be responsible to maintain and turn the alarm system off in case of malfunction, and are subject to Section 8.08.570 of this chapter. No local alarm sounding device shall sound for more than five minutes and shall incorporate an automatic cutoff. (Ord. 711, November, 1992)

8.08.120 PERMIT: REQUIRED

No person shall install, use, or maintain any alarm system without first obtaining a permit for such system from the City. Systems approved and installed prior to the adoption of this chapter shall be governed by such rules and regulations contained in this chapter. (Ord. 711, November, 1992)

8.08.130 PERMIT: APPLICATION, ISSUANCE

1. Each application for an alarm system permit shall be made on a form prescribed by the city.

2. Each permit application shall be accompanied by the fee set by Stayton City Council Resolution.

3. Upon receipt of the permit application and fee, the city shall undertake such investigation as is deemed necessary. If it appears that the proposed system will comply with the provisions of this chapter and any other applicable rules and regulations, the city shall issue to the applicant a permit bearing an identifying number and specifying the type of alarm system for which it is issued. (Ord. 711, November, 1992)

8.08.140 FEE SCHEDULE

The alarm system fees designated in Title 8 shall be set by Stayton City Council Resolution and are not refundable:

1. The initial fee for a permit application is set by Stayton City Council Resolution.

2. An additional charge shall be assessed in addition to the initial permit application fee if a user fails to obtain a permit prior to activation of the alarm.

3. False Alarm Fees will be charged based on the number of false alarms received per year. There is no charge for the first five false alarms. False Alarm fees are set by Stayton City Council Resolution and may go up incrementally based on the number of false alarms received per year at a given location.

8.08.150 PERMIT: GROUNDS FOR REVOCATION

1. The following shall be grounds for revoking any permit issued pursuant to this chapter:

    a. Any false or incomplete statement made on the permit application;

    b. Substantial alteration of alarm transmitting devices other than those approved at the time of the permit application;

    c. Testing or deliberate activation of the alarm system without following the provisions set forth in sections 8.08.480 and 8.08.490 of this chapter;

    d. Failure to properly maintain the system;

    e. Failure to pay a false alarm fee as prescribed in Section 8.08.540 of this chapter within thirty days of demand. Noncompliance shall subject the protected property to a lien on the property, as well as to the penalties prescribed in Section 8.08.590 of this chapter.

    f. Any permit for an alarm system that has ten or more false alarms within a permit year may be revoked and the system shall be disconnected.

2. An alarm user shall immediately discontinue use of the alarm system upon being notified by certified mail of the revocation of the permit. (Ord. 711, November, 1992)

8.08.160 PERMIT: APPEALS

Any party whose alarm system permit has been revoked under SMC Section 8.08.550 of this Chapter may appeal the action to the Stayton City Council by giving written notice to the City Administrator within thirty days after receipt of the notice of revocation. The filing of a notice of appeal shall stay the action appealed until disposition of the appeal by the Council. (Ord. 711, November, 1992)

8.08.170 FALSE ALARMS

As a condition of any alarm system permit issued under the provisions of this chapter and for maintenance of any similar system installed prior to adoption of this chapter, the

permittee shall pay the city fees for false alarms generated by the permittee's alarm system according to the schedule in Section 8.08.540 of this chapter. (Ord. 711, November, 1992)

8.08.180 RESERVED

8.08.190 VIOLATION: PENALTY

1. A violation of a provision of this chapter is punishable by a fine adopted by Stayton City Council Resolution.

2. In addition to other remedies and fees provided for in this chapter, any person authorized to enforce the provisions of this chapter may issue an enforcement complaint, as defined in section 6.04.020, to any person found in violation of the provisions of this chapter. (Ord. 711, November, 1992)

CHAPTER 8.12

USE OF PUBLIC PARKS, PUBLIC PROPERTY AND WATERWAYS

SECTIONS

8.12.010 DEFINITIONS

As used in this Chapter, the following mean:

1. **CAMP:** To set up or to remain in or at a campsite.

2. **CAMPSITE:** Any place where any bedding, sleeping bag, or other material used for bedding purposes, or any stove or fire is placed, established, or maintained for the purpose of maintaining a temporary place to stay, whether or not such place incorporates the use of any tent, lean-to, shack, or any other structure, or any vehicle or part thereof.

3. **CITY**: City of Stayton, Oregon

4. **DEVELOPED PARK**: The following areas are considered developed parks for the purposes of this chapter: Pioneer Park; Santiam Park; North Slope Park; Quail Run Park; Henry A. Porter Dog Park; Westown Park; Community Garden; Community Center Park; Riverfront Park, Neitling Park, Wildlife Meadows Park, and Mill Creek Park.

5. **PARK:** Real property owned, managed, or leased by the City of Stayton for recreational purposes, other than dedicated rights-of-way.

6. **PUBLIC FACILITY:** Any publicly owned structure or infrastructure used for the operation and maintenance of City functions. Facilities include, but are not limited to, Water and Wastewater treatment plants, City buildings, waterways, and public right of way.

7. **RECREATION VEHICLE**: A vacation trailer or other vehicular or portable unitwhich is either self-propelled, carried, or towed by a motor vehicle and which is intended for human occupancy and is designed for vacation or recreational purposes but not a permanent residence. Recreational vehicles also include travel trailers, motorhomes, campers, boats, boat trailers, snowmobiles, all-terrain vehicles (ATVs), and trailers designed primarily to carry ATVs or snowmobiles. Recreational vehicles do not include utility trailers or canopies.

8. **POWER CANAL a waterway (Reid Power Canal).** See Stayton Ditch.

9. **STAYTON DITCH a waterway, also known as POWER CANAL or REID POWER CANAL**. The Stayton Ditch is the waterway which flows west from the N. Santiam River dividing the Wilderness Area Park from the Riverfront Park in Stayton. The Stayton Ditch flows from the North Santiam River west to First Ave in Stayton, crossing First Ave flowing back into the N. Santiam River, as illustrated below in Exhibit A.

10. **SMOKING**: Any inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, weed, plant or other tobacco or tobacco-like product or substance in any manner or any form.

11. **TOBACCO PRODUCT**: Any tobacco, cigarette, cigar, pipe tobacco, smokeless tobacco, chewing tobacco, or any other means of ingestion.

12. **TOBACCO USE**: Smoking, chewing or other ingestion of any tobacco product.

8.12.020 CAMPING

1. No person may camp in or upon city property, parks, or public facilities at any time except within the following locations between the hours of 8:00 p.m. and 7:30 a.m.:

    1) Undeveloped right of way west of Wilco Road

2. A camping permit within a developed park may be obtained for a special event from the Chief of Police or designated representative or by declaration of the Mayor in emergency circumstances. An application shall be filed with the City for each RV, tent, or campsite. The Chief of Police or designated representative may issue a permit to any person to park a recreational vehicle (RV) or to camp upon any developed park property. A permit issued under this section shall be issued when the Chief of Police or designated representative finds that the following criteria will be met:

    1) The applicant has made arrangements for appropriate sanitary facilities and drinking water;

    2) The proposed activity for which the permit is issued is not likely to disturb the peace and quiet of any person;

    3) The proposed activity is unlikely to result in litter, trash, garbage, sewage, or other unsanitary material being placed or left on public property; and,

    4) A permit shall not be issued for camping in a developed park unless it is in conjunction with another City approved event, such as a festival in the park and does not interfere with the needs of the City such as normal city services.

    5) The permit may be granted for up to ten days. A permit shall not be issued to the same applicant more than once in any thirty-day period.

8.12.030 PARK HOURS

Developed parks of the City shall be closed to access and use by the public between the hours of 10:00 p.m. and 6:00 a.m. unless a permit has been issued by the Chief of Police or designee pursuant to 8.12.020.2 or a facility use permit has been issued by the City.

8.12.040 PROHIBITED BEHAVIOR IN PUBLIC PARKS, PUBLIC PROPERTY, AND FACILITIES

1. No person shall make, assist in making, continue, or cause to be made any boisterous, disturbing, threatening, abusive, indecent, or obscene language or gestures; or unnecessary noise; or by any other act to breach the public peace; or annoy, disturb, injure, or endanger the comfort, repose, health, safety, welfare, or peace of others while in any park or public facility in accordance with the State Disorderly Conduct laws.

2. No person shall blow, spread, or place any nasal or other bodily discharge, or spit, urinate, or defecate on the floors, walls, partitions, furniture, fittings, or any portion of a public restroom located in any park, or in any place in a public restroom or public facility, excepting directly into the particular fixture provided for that purpose.

3. No person shall damage or do anything that will or could cause damage to the public parks, public property, waterways, and facilities.

4. No person shall use the City's recreational equipment and facilities for activities other than their intended or approved purpose or in a way that could cause damage to them.

5. Smoking of tobacco, marijuana, or any other substances including E-Cigarettes and use of smokeless tobacco is prohibited at any City-owned property, park and facilities. Smoking or vaping is prohibited outside the front street façade of any building in the area designated as Downtown in the Comprehensive Plan Map and properties on both sides of N. First Avenue between Water Street and Washington Street. Smoking is defined as inhaling, exhaling, breathing, or carrying any lighted cigar, cigarette, E-cigarette, vape pen, or other tobacco product in any manner or in any form.

6. Fires are not permitted except in designated fire rings or barbeque stands.

7. No person shall enter into, put anything into, or cause anything to end up into the waterway known as the Stayton Ditch.

8. No person shall swim, float, kayak, raft, boat, fish, wade, play in or participate in any similar recreation activity in the Stayton Ditch.

9. The Stayton Ditch may be accessed for official use such as by the City of Stayton, Santiam Water Control District, Stayton Fire District, or other governmental or public safety organizations.

8.12.050 PROHIBITING CONSUMPTION OF ALCOHOLIC BEVERAGES ON PUBLIC PROPERTY

No person shall drink or consume alcoholic beverages in or upon any public street or sidewalk, alley, public grounds, parks, City-owned facilities and properties, except when a permit for that purpose has been issued pursuant to this SMC or a business establishment has received OLCC approval for an outdoor eating area.

a. Upon application to the City, the City Administrator, or designee may grant a revocable facility use permit to responsible persons or organizations for an event or activity at which alcoholic beverages may be served and consumed in City-owned facilities or on City property.

b. The City Council shall adopt rules governing facility use permits by Resolution.

c. The Stayton Police may issue an ordinance violation citation for violating the Facility Use Rules which also may include revoking the "Facility Use" permit.

8.12.060 EXCLUSION OF PERSONS FROM PARKS AND PUBLIC FACILITIES

1. If there is probable cause to believe that a person has violated the Stayton Municipal Code, Titles 6 or 8, 9, or Chapters 10.04, or 10.12, or any related state law, while in a public park or public facility, that person may be excluded from the park or public facility where the incident occurred for a period of not more than thirty (30) days in accordance with the following procedure:

   a. Written notice shall be given to the person to be excluded from a park or public facility. The exclusion period shall take immediate effect.

   b. The notice shall prominently specify the beginning and ending dates of the exclusion period.

   c. The notice shall specify the location(s) they are excluded from which is based on the original offense location. The exclusion location shall only reflect the location of the original offense. For example: If the person commits a crime in the park they should only be excluded from the park(s) and not the Stayton Pool or the Community Center.

   d. The notice shall prominently display a trespass warning describing the potential consequences of unlawful behavior after receipt of an exclusion notice and for entering a park, public property or facility during the exclusion period.

   e. At any time within the exclusion period, a person having received a notice may apply in writing to the Chief of Police or designee for a temporary waiver from the exclusion for good reason shown. Good reason may include but not limited to such things as employment purposes, first amendment activities, a funeral or wedding. The Chief of Police will have 48 hours to make a decision on the waiver.

   f. The excluded individual may appeal the exclusion to the Stayton Municipal Court which shall hear the appeal at the next available Municipal Court hearing date.

The Municipal Court may overturn the exclusion, agree with the exclusion or extend the exclusion. The Municipal Court decision is final. An exclusion is stayed during the time of the appeal.

g. This Section shall not apply to City-owned properties with long term lease by a business organization, such as the movie theater or the Moose Lodge. Those properties are considered to be privately controlled.

h. If a person is excluded from City business offices, reasonable accommodations will be made for legitimate City business to be conducted.

8.12.070 EMERGENCY CLOSURE OF PUBLIC PROPERTIES, PARKS, AND WATERWAYS

1. The Police Chief or designee may close a public property, park, waterway or part thereof, at any time by erecting barricades, signs, locking mechanisms or other appropriate measures prohibiting and barring access to any such public property, park, waterway or part thereof, at appropriate locations. Notice that any public property, park, waterway or part thereof, is closed shall be posted at appropriate locations during the period of such closure.

2. The Police Chief or designee may close any public property, park, waterway, or any part thereof, in accordance with this section, in the interest of public safety, health, and welfare in the event conditions exist in or near that premises which involve any of the following circumstances:

a. Life or properties appear to be endangered and other means cannot reasonably be utilized to eliminate the danger;

b. An overcrowding of persons or vehicles has occurred, impairing access of emergency assistance or emergency vehicles;

c. The subject premises or other property located near the premises reasonably appears to be endangered;

d. Persons making, assisting in making, continuing, or causing to be made any boisterous, disturbing, threatening, abusive, indecent, or obscene language or gestures, or unnecessary noise, or by any other act to breach the public peace; or annoying, disturbing, injuring, or endangering the comfort, repose, health, safety, welfare, or peace of others in any park, public facility, or waterway and is of such consequence that cessation of the disturbance cannot otherwise be accomplished;

e. A hazardous condition exists;

f. That violation(s) of criminal offenses or code is occurring and is caused by sufficient numbers of persons, or is of such consequence that cessation of the disturbance cannot otherwise be accomplished; or,

g. Other conditions exist such that the safety or protection of persons or property cannot reasonably be assured.

3. During the closure of a park, public premises or waterway, or portion thereof, in accordance with this chapter, it shall be unlawful for any person to enter upon the premises, or any part thereof, that has been closed, or to remain in the premises, or part thereof, after having been notified of the closure and having been requested to leave by an authorized authority.

4. Such emergency closure shall not exceed 18 hours without the written approval of the City Administrator.

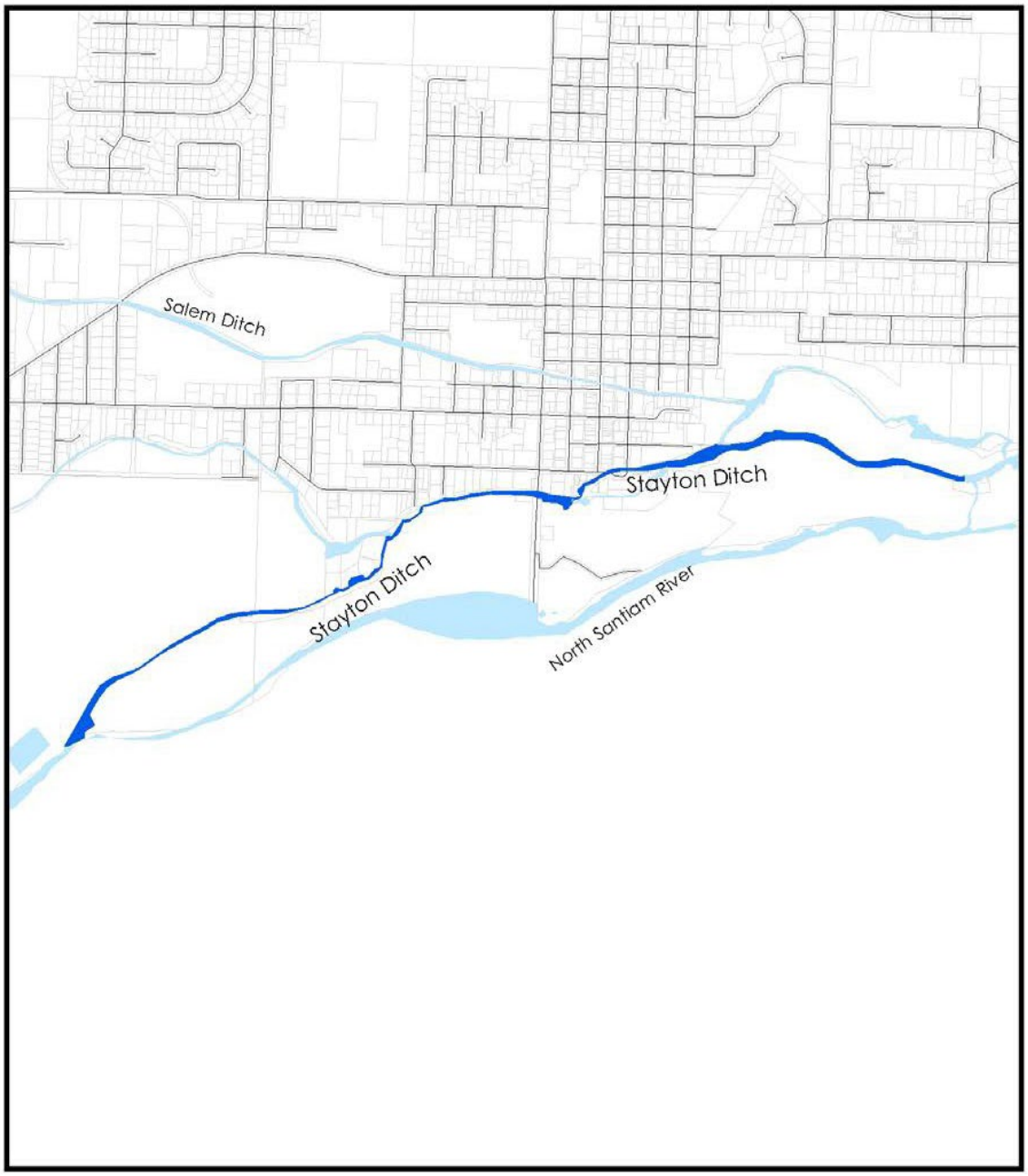
8.12.080 VIOLATION: PENALTY

1. A violation of a provision of this chapter is punishable by a fine approved by Stayton City Council Resolution.

2. In addition to the remedies and fees provided for in this Chapter, any person authorized to enforce the provisions of this chapter may issue an enforcement complaint, as defined in section 6.04.020, to any person found in violation of the provisions of this chapter.

3. If there is probable cause to believe a person has violated provisions of this Chapter, constituting a crime under Oregon Revised Statues that person may be prosecuted accordingly, and if convicted, fined accordingly.

Exhibit A


Salem Ditch
Stayton Ditch
Stayton Ditch
North Santiam River

CHAPTER 8.20

CHRONIC NUISANCE PROPERTY ORDINANCE

SECTIONS

8.20.010 TITLE OF PROVISIONS

This chapter shall be known as the Chronic Nuisance Property Code. (Ord. 809, February, 2000)

8.20.020 INCORPORATION OF STATE STATUTE AND STAYTON MUNICIPAL CODE

Repealed. (Ord. 874, section 25, 2004)

8.20.030 DEFINITIONS

As used in this ordinance, the following definitions apply:

1. **CHIEF OF POLICE:** means the Chief of the Stayton Police Department or designee.

2. **CITY ADMINISTRATOR:** means the City Administrator of the City of Stayton or designee.

3. **CHRONIC NUISANCE PROPERTY:** means real property premises (including industrial, commercial or residential buildings), herein also referred to as the property, premises or subject property, upon, near (as hereinafter described in this section) or in which three or more distinct

occurrences of any of the below listed prohibited acts or behaviors (as defined in Oregon law or the SMC) occur, or the patrons, employees, residents, owners or occupants thereof engage in three or more of said prohibited acts or behaviors on the property, or, in relation to the property within 400 feet of the property, during any 90 consecutive day period. The victim of a crime should not be held responsible for incidents that occur at the location when considering enforcement of this Section:

A. All Crimes against Persons

B. The following Crimes and Violations against Society will include:

a. Dangerous Animal
b. Disorderly Conduct
c. Drug crimes and violations
d. Furnishing Alcohol to a Minor
e. Minor in Possession of Alcohol
f. Custodial Interference
g. Prostitution
h. Public and Private Indecency
i. Unnecessary Noise
j. Weapons and Firearms including Discharge of Weapons in the City
(Ord. 977, December 2014)

C. Property Crimes and Violations in which the "Chronic Nuisance Property" in question is directly involved in the crime such being the location where stolen property is stored or stolen property transactions are conducted, or where arson/reckless burning has occurred, graffiti etc.

4. **CODE:** City of Stayton Municipal Code (aka SMC)

5. **OWNER:** means the person(s) (including individual(s), corporation, partnership or other entity) having legal or equitable title to the property. Property means any real property and any improvement thereon incidental or appurtenant, including but not limited to any room, apartment, house, building, structure or any separate part or portion thereof, whether permanent or not.

6. **RESPONSIBLE PARTY** includes:

A. The owner of the property, or the owner/s manager or agent or other person or entity in control of the property on behalf of the owner; and/ or,

B. The person or entity occupying the property, including a bailee, lessee, tenant or other having possession.

C. Responsible party for a specific property shall be presumed from the following:

a. The owner and the owner/s agent, as shown on the Assessors tax rolls of Marion County.

b. The resident or occupant of the property, as shown on the records (including utilities records) of the City of Stayton.

7. **COURT:** means a court of competent jurisdiction, which may address the respective issue.

8.20.040 CHRONIC NUISANCE PROPERTY

1. The behavior, acts or omissions described in this Chapter are hereby declared to be nuisances and if they commonly reoccur in relation to a specific property, such property may be declared chronic nuisance property, thereby requiring the application of remedies set out in this Chapter.

2. Any property within the City of Stayton, which is found to be a chronic nuisance property, shall be in violation of this Ordinance and subject to its remedies.

3. Any person who is a responsible party for property, which is deemed a chronic nuisance property, shall be in violation of this Chapter and subject to its remedies.

8.20.050 PRE-FILING NOTIFICATION PROCEDURE

After two occurrences on or near (as defined in this Chapter) the property, of any of the prohibited acts or behaviors listed in this Ordinance, within a consecutive 90-day period, the Chief of Police or designee shall provide notification, via certified mail, return receipt requested, to all known responsible parties for the property, stating the times and places of the alleged occurrences and the potential liability for violation of this Chapter. The City Administrator and City Attorney shall be provided copies of the notice.

8.20.060 COMPLIANCE AGREEMENT WITH RESPONSIBLE PARTY(IES)

1. After providing notification to all known responsible parties, the Chief of Police or designee has the authority to solicit and obtain, on behalf on the City, a voluntary agreement with the party(ies) to comply with the provisions of Chapter (A compliance agreement@). The compliance agreement shall be in writing and signed by all known responsible parties and the Chief of Police or designee on behalf of the City; a copy thereof shall be provided to the City Administrator.

2. In proposing the compliance agreement, the Chief of Police or designee shall consider the factors outlined in Section 8.20.090(2) below.

3. The compliance agreement is strictly remedial in nature and shall not be interpreted to limit in any manner the authority of the City to commence an action against any responsible party or another for a violation of any provision of the Stayton Municipal Code or Oregon law.

4. If the compliance agreement is not followed as agreed, the City may proceed with civil action as provided in this Chapter or the provisions of the ORS or the Stayton Municipal Code.

8.20.070 COMMENCEMENT OF ACTIONS; SUMMONS AND COMPLAINT

1. In the event there occurs on or near (as defined in this Chapter) the property three or more continued prohibited acts or behavior as listed in Section 8.20.030 of this Chapter, contrary to the terms of the compliance agreement and/or in violation of this Ordinance, the Stayton City Council shall be advised and, upon deliberation, may direct that the City proceed to initiate court action pursuant to the provisions of this Chapter or take such other action as the Council deems appropriate.

2. Except as otherwise noted, the procedures to be used in processing a violation under this Chapter are contained in SMC Title 1: GENERAL PROVISIONS, Ch. 1.32 General Penalty and Title 2: ADMINISTRATION AND PERSONNEL, Ch. 2.20 Municipal Court.

3. Subject to the provisions of SMC Title 1: GENERAL PROVISIONS, Sections 1.32.970, Violation: Penalty, 1.32.980, Each Act a Separate Violation, and 1.32.990, Default of Payment, following the filing of an action in a court of competent jurisdiction, upon verification of proper service of process of the Summons and Complaint, and a prima facie presentation to the Court, a default judgment and order may be entered against a respondent who fails to duly appear before that court.

8.20.080 REMEDIES; FINES; CIVIL PENALTY; ENFORCEMENT ORDER

1. In the event the respondent(s) is found by a preponderance of the evidence to have violated this Chapter, the court may, by judgment and order:

   A. Require that the chronic nuisance property be closed against all use and occupancy for a period of not less than 30 days, but not more than 180 days; and/or,

   B. Assess a fine of not more than $250.00 for each offense.

   C. Subsequent acts and behavior in violation of the provisions of this Chapter, which occur within two years following the entry of any earlier judgment and order, may be actionable, at the direction of the City Council, and, if violation(s) of this Chapter is established, the chronic nuisance property may be closed in accordance with this Section, and the court may impose a civil penalty of a fine of not more than one thousand dollars ($1,000.00).

   D. In addition to above, the court may employ any other remedy provided by law, deemed by the court to be appropriate to abate the nuisance.

   E. In addition to the above, the court may assess costs and charges as described in Section 8.20.110.

2. In lieu of closure of the property, at the court's discretion, the respondent may be permitted to file a bond with the City that is acceptable to the court and subject to the court's satisfaction of the respondent's good faith commitment to abatement of the nuisance. Such bond shall be in the amount of at least $500 and shall be conditioned upon the non-recurrence, for a period of one year after entry of the judgment, of any of the acts or behaviors listed in Section 8.20.030 of this Chapter. Forfeiture of the bond is subject to court review and order.

3. The court may authorize the City to physically secure the subject property against use or occupancy, in compliance with the judgment or order, in the event the owner(s) or the responsible party(ies) fail to do so within the time specified by the court.

8.20.090 DEFENSES; MITIGATION

1. It is a defense to an action brought pursuant to this Chapter, that the responsible party, the respondent, at the time the alleged action or behavior occurred, could not, in the exercise of reasonable care or diligence, determine that the property had become chronic nuisance

property, or could not, in spite of the exercise of reasonable care and diligence, control the conduct leading to the determination that the property is a chronic nuisance property. The assertion that the party, the respondent, was not present at the property at the time the alleged acts or behavior occurred upon which the property was deemed chronic nuisance property, shall not, alone, be a defense to the action.

2. The court may consider any of the following factors, as appropriate, in its decision, and shall cite those found applicable:

   A. The effort taken by the responsible party to mitigate or correct the alleged action or behavior which occurred at or near (as defined in this Chapter and in relation to the property;

   B. Whether the alleged action or behavior was repeated or continuous;

   C. The magnitude or gravity of the alleged action or behavior; The cooperativeness of the responsible party with the City in causing the abatement of the alleged action or behavior;

   D. The cost to the City of investigating and abating action or behavior or attempting to correct the condition; or,

   E. Any other factor deemed by the court to be relevant.

8.20.100 EMERGENCY REMEDY

In addition to any remedy available to the City under this Chapter or otherwise, in the event the City Administrator finds that a property or its use constitutes an immediate threat to the public safety and welfare, upon review and approval by the City Council, the City may apply to the court for such relief as is deemed appropriate.

8.20.110 COSTS; LIEN

1. The court may assess the property owner(s) and the responsible party(ies) the following costs incurred by the City in the proceeding:

   A. Costs incurred in the actual physical securing of the subject property against use or occupancy, including, but not limited to, the cost of personnel, materials, medical costs, consulting fees, notices and equipment charges;

   B. The City’s investigative costs; and,

C. Administrative costs and attorney fees and costs (collectively referred to as cost) incurred in pre-filing implementation of the abatement process, together with the cost of the initiation and conducting of the court action.

2. The City Administrator may, within 14 days of the court's entry of judgment and order against the respondent(s), submit a signed detailed statement of costs (including attorney fees) to the court for its review. If no objection to the statement is made within the period prescribed by Oregon Rules of Civil Procedure, Rule 67, the amount submitted shall become a part of the judgment and a lien against the subject premises. A copy of the judgment and the statement of costs, together with a verified designation of the address and legal description of the property, shall be forwarded to the Stayton City Recorder, who shall enter the same in the Stayton City Lien Docket.

3. Persons assessed the costs and/or civil penalty pursuant to this Chapter shall be jointly and severally liable for the payment thereof to the City.

8.20.120 ATTORNEY FEES

In any action brought pursuant to this Chapter, the court may, in its discretion, award reasonable attorney's fees to the prevailing party.

8.20.130 SEVERABILITY

If any provision of this Chapter, or its application to any person or circumstance, is held to be invalid for any reason, the remainder of the Chapter, or the application of its provisions to other persons or circumstances, shall not in any way be affected.

8.20.140 NONEXCLUSIVE REMEDY

The remedies described in this Chapter shall not be the exclusive remedies of the City in enforcement of the prohibition of the acts and behaviors described in Section 8.20.030. (Ord. 809, February, 2000)

TITLE 9. PUBLIC PEACE AND WELFARE

CHAPTERS

CHAPTER 9.02

DEFINITIONS

SECTIONS

9.02.010 DEFINITIONS

For the purposes of this title, the following words and phrases mean:

FELONY: A serious crime, usually punishable by at least one year in prison.

MISDEMEANOR: Criminal offenses for which the maximum penalty is a fine not to exceed $6250 and/or incarceration not to exceed 1 year.

VIOLATION: Offenses for which there is no jail sanction as defined in ORS153.008.

(Ord. 977, December 2014)

TITLE 9. PUBLIC PEACE AND WELFARE

CHAPTER 9.04

ADOPTION OF STATE LAW

SECTIONS

9.04.010 STATE STATUTES ADOPTED

1. The statutes and regulations of the State of Oregon and Marion County, Oregon, shall apply. Accordingly, the City of Stayton shall have the right to prosecute. (Ord. 874, section 27, 2004)

2. If any section or sections of this title are hereafter declared to be invalid, unconstitutional, or unenforceable in the City of Stayton or in the jurisdiction of the municipal court, it shall not affect any other section of this title. (Ord. 711, November, 1992)

9.04.020 REVISIONS TO CODE

When all or part of the *Criminal Code of Oregon* prohibitions relating to liquor, or the Uniform Controlled Substances Act, are amended or repealed, the part(s) thereof so amended or repealed shall remain in force for the purpose of authorizing the accusation, prosecution, conviction, and punishment of a person in violation of the code, prohibitions, act, or part thereof before the effective date of the amending or repealing ordinance. (Ord. 711, November, 1992)

TITLE 9. PUBLIC PEACE AND WELFARE

CHAPTER 9.08

INCHOATE OFFENSES

SECTIONS

9.08.010 SOLICITING AND CONSPIRING TO VIOLATE CODE

No person shall in any way or manner aid, abet, solicit, counsel, advise, encourage, employ, or engage another or conspire with another to violate a provision of this Stayton Municipal Code. (Ord. 711, November, 1992)

9.08.020 ATTEMPT TO COMMIT OFFENSES

Any person who attempts to commit any of the offenses cited in this Stayton Municipal Code, but who for any reason is prevented from consummating such act, shall be deemed guilty of an offense. (Ord. 711, November, 1992)

TITLE 9. PUBLIC PEACE AND WELFARE

CHAPTER 9.12

OFFENSES BY OR AGAINST PUBLIC OFFICERS AND GOVERNMENT

SECTIONS

9.12.010 INTERFERENCE WITH RADIO COMMUNICATION SYSTEM

No person shall operate any generator or electromagnetic wave or cause a disturbance of such magnitude as to interfere with the proper functioning of public safety radio or emergency communication system. (Ord. 711, November, 1992)

9.12.020 DISORDERLY CONDUCT AT FIRES

No person at or near a fire shall:

1. Obstruct or impede the fighting of the fire;

2. Interfere with fire department personnel or fire department equipment;

3. Behave in a disorderly manner; or,

4. Refuse to promptly observe an order of a member of the fire or police departments. (Ord. 711, November, 1992)

9.12.030 INTERFERENCE WITH POLICE

1. No person shall interfere with a police officer in performance of the officer's duty.

2. "Interfere" includes but is not limited to:

   a. Physical contact with a police officer, vehicle, animal, or item of police equipment when the contact substantially limits the officer's ability to act in an official capacity.

   b. Verbal abuse or production of noise intended and sufficient to prevent a police officer from adequately communicating when communication is necessary for the duty being performed.

   c. Electronic interruption or blocking of police communications.

d. Mechanical or electronic disruption of effective use of police equipment, including, but not limited to, vehicle speed detection devices.

9.12.040 GIVING FALSE INFORMATION TO POLICE OFFICERS

It shall be unlawful for any person to knowingly and willfully give any false, untrue or misleading information with intent to obstruct justice, to a police officer while the officer is acting in an official capacity. (Ord 977, December 2014)

TITLE 9. PUBLIC PEACE AND WELFARE

CHAPTER 9.15

POLICE INVENTORY SEARCHES

SECTIONS

9.15.010 GRANTING AUTHORITY AND ESTABLISHING PROCEDURES FOR INVENTORY SEARCHES

Purpose. This Stayton Municipal Code "Chapter" is meant to exclusively apply to the process for conducting an inventory of the personal property in an impounded vehicle and the personal possessions of a person in police custody and shall not be interpreted to affect any other statutory or constitutional right that police officers may employ to search persons or search or seize possessions for other purposes.

9.15.020 DEFINITIONS: FOR THE PURPOSE OF THIS CHAPTER, THE FOLLOWING DEFINITIONS SHALL APPLY:

1. VALUABLES:

   a. Cash in an aggregate amount of $10. or more; or,

   b. Individual items of personal property with a value of over $200.

2. OPEN CONTAINER: A container which is unsecured or not completely secured in such a fashion that the container contents are exposed to view.

3. CLOSED CONTAINER: A container the contents of which are not exposed to view.

4. POLICE CUSTODY:

   a. The imposition of restraint as a result of an arrest, as that term is defined in Oregon law or;

   b. The imposition of actual or constructive restraint by a police officer pursuant to a court order; or,

c. The imposition of actual or constructive restraint by a police officer for purposes of taking the restrained person to a facility for the involuntary confinement of persons pursuant to Oregon law.

5. POLICE OFFICER: Any peace officer, as defined by Oregon law who is employed by the Stayton Police Department or affiliated law enforcement agency.

9.15.030 INVENTORIES OF IMPOUNDED VEHICLES.

1. The contents of all vehicles impounded by a police officer shall be inventoried. The inventory shall be conducted before constructive custody of the vehicle is released to a third-party for towing or otherwise, except under the following circumstances:

   a. If there is reasonable suspicion to believe that the safety of either the police officer or another person is at risk, a required inventory shall be done as soon as safely practical; and,

   b. If the vehicle is being impounded for evidentiary purposes in connection with the investigation of a criminal offense, the inventory shall be done after such investigation is completed.

2. The purposes for the inventory of an impounded vehicle are:

   a. To locate weapons and instruments that may facilitate an escape from custody or endanger law enforcement personnel;

   b. To locate toxic, flammable or explosive substances;

   c. To promptly identify property to establish accountability and avoid
      a. spurious claims to property;

   d. To assist in the prevention of theft of property, and the location and identification of stolen property;

   e. To reduce the danger to persons and property; or,

   f. To fulfill the requirements of Oregon law to the extent that it may apply to certain property held by the police officer for safekeeping.

3. Inventories of impounded vehicles shall be conducted according to the following procedure:

   a. An inventory of personal property and the contents of open containers shall be conducted throughout the passenger and engine compartments of the vehicle including, but not limited to, accessible areas under or within the dashboard area, in any pockets in the doors or in the back of the front seat, in any console between the seats, under any floor mats and under the seats;

   b. In addition to the passenger and engine compartments as described above, an

inventory of personal property and the contents of open containers shall be conducted in the following locations:

i. Any other type of unlocked compartments that are a part of the vehicle including, but not limited to, unlocked vehicle trunks and unlocked car-top containers; and

ii Any locked compartments including, but not limited to, locked vehicle trunks, locked hatchbacks and locked car-top containers, if either the keys are available to be released with the vehicle to the third-party for towing or otherwise or an unlocking mechanism for such compartment is available within the vehicle.

c. Unless otherwise provided in this ordinance, closed containers located either within the vehicle or any of the vehicles compartments will not be opened for inventory purposes.

d. Upon completion of the inventory, the police officer shall complete an Inventory Report.

e. Any valuables located during the inventory process shall be listed on a property receipt. A copy of the property receipt shall be left in the vehicle or tendered to the person in control of the vehicle if such person is present.

9.15.040 INVENTORIES OF PERSONS IN POLICE CUSTODY.

1. A police officer shall inventory the personal property in the possession of a person taken into police custody and said inventory will occur:

a. At the time of booking; or,

b. At the time custody of the person is transferred to another law enforcement agency, correctional facility, or treatment facility as that phrase is used in Oregon laws or such other lawfully approved facility for the involuntary confinement of persons pursuant to Oregon laws.

2. The purposes for the inventory of a person in police custody are:

a. To locate weapons and instruments that may facilitate an escape from custody or endanger law enforcement personnel;

b. To locate toxic, flammable or explosive substances;

c. To promptly identify property to establish accountability and avoid spurious claims to property;

d. To assist in the prevention of theft of property, and the location and identification of stolen property;

e. To reduce the danger to persons and property; or,

f. To fulfill the requirements of Oregon law to the extent that such law may apply to certain property held by the police officer for safekeeping.

3. Inventories of the personal property in the possession of persons in police custody shall be conducted according to the following procedures:

a. An inventory shall occur at the time of booking. However, if reasonable suspicion exists to believe that the safety of either the police officer or the person in custody or both are at risk, an inventory will be done as soon as safely practical prior to the transfer of custody to another law enforcement agency or facility.

b. To complete the inventory of the personal property in the possession of such person, the police officer shall remove all items of personal property from the clothing worn by or in the possession of such person. In addition, the officer will also remove all items of personal property from all open containers in the possession of such person.

c. A closed container in the possession of such person will have its contents inventoried only when:

i. The closed container is to be placed in the immediate possession of such person at the time that the person is placed in the secured area of a custodial facility, police vehicle or secure police holding room; or,

ii Such person requests that the closed container be kept by the person in the secure area of a police vehicle or a secure police holding room; or,

iii. The closed container is designed for carrying money and/or small valuables on or about the person, including, but not limited to, closed purses, closed coin purses, closed wallets and closed fanny packs.

iv. Valuables found during the inventory process shall be noted by the police officer in a report.

v. All items of personal property not left in the immediate possession of the person in custody nor left with the facility or agency accepting custody of the person shall be handled by preparing a property receipt listing the property to be retained in the possession of the agency. A copy of that receipt will be tendered to the person in custody when such person is released to the facility or agency accepting custody of such person.

vi. All items of personal property not left in the immediate possession of the person in custody nor dealt with as provided in subsection v. above, will be released to the facility or agency accepting custody of the person so that it may:

a. Hold the property for safekeeping on behalf of the person in custody; and,

b. Prepare and deliver a receipt, if required by Oregon law of valuables held on behalf of the person in custody. (Ord. 862, April 06, 2004)

TITLE 9. PUBLIC PEACE AND WELFARE

CHAPTER 9.20

OFFENSES AGAINST PUBLIC DECENCY

SECTIONS

9.20.010 PUBLIC URINATION OR DEFECATION

No person shall, while in a public place or in view of a public place, perform an act of urination or defecation, except in enclosed toilets provided for that purpose. (Ord. 711, November, 1992)

9.20.020 REPEALED (Ord. 1026, October 2018)

TITLE 9. PUBLIC PEACE AND WELFARE

CHAPTER 9.24

OFFENSES BY OR AGAINST MINORS

SECTIONS

9.24.010 MINORS NIGHTTIME CURFEW

1. No minor under the age of eighteen (18) years shall be in or upon any street, highway, park, alley or public way or place between the hours specified in subsection 2 and 3 of this section unless:

    a. The minor is accompanied by a parent, guardian, or other person over 18 years of age and authorized by the parent or by law to have care and custody of the minor; or

    b. The minor is engaged in a lawful pursuit or activity which requires the presence of the minor in such public places during the hours specified in this section; or

    c. The minor is lawfully emancipated pursuant to Oregon Revised Statutes

2. For minors under the age of sixteen (16) years, the curfew is between 10:00 p.m. and 6:00 a.m.

3. For minors sixteen (16) years of age or older, the curfew is between 12:00 a.m. and 6:00 a.m.

9.24.020 MINORS DAYTIME CURFEW

1. No minor between the ages of seven (7) and eighteen (18) years, who has not completed the twelfth grade, shall be in or upon any street, highway, park, alley or public way or place during regular school hours except while attending school as required by state law unless:

a. The minor is accompanied by a parent, guardian, or other person over 18 years of age and authorized by the parent or by law to have care and custody of the minor; or,

b. The minor is engaged in a lawful pursuit or activity which requires the presence of the minor in such public places during regular school hours and is authorized by the minor's parent, guardian, or other person having the legal care and custody of such minor; or,

c. The minor is lawfully emancipated pursuant to state law; or,

d. The minor is authorized and approved to be away from school as provided by state law, but is not suspended or expelled.

2. For the purposes of this section, regular school hours are those hours, for the full-time school, which the child would attend in the school district in which the child resides, on any day for which school is in session, unless such day is scheduled vacation or holiday observed by the school.

9.24.030 RESPONSIBILITY OF PARENT OR GUARDIAN

1. No parent, guardian, or person having the care and custody of a minor under the age 18 years shall knowingly or negligently allow such minor upon a street, highway, park, alley, or other public way or place between the hours specified in Section 9.24.010, except as otherwise provided in that section.

2. No parent, guardian, or person having care and custody of a minor between the ages of 7 and 18 years of age, who has not completed the twelfth grade shall knowingly or negligently allow such minor to be in or upon any street, highway, park, alley, or other public place during regular school hours except as otherwise provided in Section 9.24.020.

3. For the purposes of Sections 9.24.010 and 9.24.020, a person negligently allows a violation of this Code Chapter if, in the exercise of reasonable diligence, the person knew or should have known that a violation would occur.

9.24.040 ENFORCEMENT

1. Any police officer or any other law enforcement officer is hereby authorized and empowered to take charge of any person under the age of 18 years violating the provisions of Sections 9.24.010, 9.24.020 or 9.24.030.
2. It shall be the duty of any such officer taking charge of such person to thereafter notify the parent, guardian or authorized custodian that the minor will be held in

the custody of the police officer until he or she can come and get such minor person.

3. For violations of Section 9.24.020, a police officer, in lieu of holding the minor in custody for delivery to a parent, legal guardian or authorized custodian, may release the minor to the principal or designated official at the school at which the minor is enrolled.

9.24.050 DUTY OF PARENT, GUARDIAN OR CUSTODIAN TO PICK UP VIOLATORS

It shall be unlawful and shall be considered a separate offense for any parent, guardian, or any other adult person having the legal care and custody of any person under the age of 18 years to refuse the bidding to come to the police officer and take the minor person to the minor's home immediately upon being notified by the police department as provided in Section 9.24.040.

9.24.060 PENALTY - VIOLATION BY A MINOR

Any minor who violates the provisions of this chapter may be taken into custody and may be subject to any proceedings available at law. (Ord. 874, section 29, 2004)

9.24.070 PENALTY - VIOLATION BY PARENT OR GUARDIAN

1. A violation of Section 9.24.030 shall be punishable as an infraction set by Council Resolution.

2. A violation of Section 9.24.050 shall be punishable as an infraction by a fine set by Resolution. (Ord. 836, Dec.17, 2001)

TITLE 9. PUBLIC PEACE AND WELFARE

CHAPTER 9.28

WEAPONS

SECTIONS

9.28.010 DISCHARGE OF WEAPONS

1. Except at firing ranges approved by the police chief and the council, no person other than an authorized peace officer shall fire or discharge a gun or other weapon, including spring- or air-activated pellet guns, air guns, BB guns, bow and arrow, sling shot, or any other device sued as a weapon which propels a projectile by use of gunpowder, other explosive, jet, rocket propulsion, or manual propulsion, within the city limits.

2. The provisions of this section shall not be construed to prohibit the firing or discharging of any weapon by any person in the lawful defense or protection of that person, family, or property. (Ord. 711, November, 1992)

TITLE 9. PUBLIC PEACE AND WELFARE

CHAPTER 9.32

INHALING TOXIC VAPORS

SECTIONS

9.32.010 PROHIBITIONS

1. It is unlawful for any person deliberately to smell or inhale any drug, or any other noxious substance, vapor, or chemical containing any ketones, aldehydes, organic acetates, either chlorinated hydrocarbons or other substances containing solvents, releasing vapors, in such excessive quantities as to cause or potentially cause conditions of intoxication, inebriation, excitement, stupefaction, hallucination, or dulling of the brain or nervous system.

2. Subsection 1. of this section applies with particularity, but is not limited to, model airplane glue, fingernail polish, or any other substance or chemical which has the above described effect upon the brain or nervous system.

3. Any person found within the city visibly in a condition of intoxication, inebriation, excitement, stupefaction, or hallucination caused by inhaling substances as above described, shall be presumed to have inhaled the same within the city.

4. If the deliberate inhaling of such an above described substance produces a visible manifestation of a condition as described in subsection 1. of this section, it shall be prima facie evidence that the person so inhaling did so with the intent of producing such state or condition.

5. This section shall not apply to the use of inhalants, or the condition produced thereby, where such use is made or condition induced thereby are under the express direction or written prescription of a licensed physician for medical purposes. (Ord. 711, November, 1992)

CHAPTER 9.40 DRUG PARAPHERNALIA

SECTIONS

9.40.010 PURPOSE

1. The purpose of this chapter is to limit the display, sale and availability of drug paraphernalia and deter the negative effects in the City of Stayton. Some of the negative effects of drug paraphernalia include:

    a. Youth who believe drug use is acceptable and common are more likely to use drugs.

    b. Availability of drug paraphernalia increases the chance of relapse among citizens overcoming drug addiction.

    c. Drug paraphernalia often is designed to appeal to youth with kid friendly colors and shapes and are often promoted near commodities youth tend to purchase (candy, toys etc.)

    d. The prevalence of drugs in a neighborhood increases the likelihood of violence and crime

2. Limiting the display and availability for sale of paraphernalia will not eliminate drug abuse, but endeavoring to make access to paraphernalia less convenient, is intended to discourage the individual drug use.

9.40.020 DEFINITIONS

For the purpose of this Chapter, any word or phrase defined by Oregon Revised Statutes or administrative rule and not defined below shall have the same meaning as defined by statute or rule; otherwise, the following words or phrases mean:

1. "Drug paraphernalia" means all equipment, products, and materials of any kind which are used, marketed for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of the laws of the State of Oregon.. Drug paraphernalia includes, but is not limited to:

    a. Kits used, marketed for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;

b. Kits used, marketed for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;

c. Isomerization devices used, marketed for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;

d. Testing equipment used, marketed for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances;

e. Scales and balances used, marketed for use, or designed for use in weighing or measuring controlled substances;

f. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, marketed for use, or designed for use in cutting controlled substances;

g. Separation gins and sifters used, marketed for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;

h. Containers and other objects used, marketed for use, or designed for use in storing or concealing controlled substances;

i. Objects used, marketed for use, or designed specifically for use of an inhalant as defined in Oregon law;

j. Objects used, marketed for use, or designed specifically for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:

   i. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
   ii. Water pipes;
   iii. Carburetion tubes and devices;
   iv. Smoking and carburetion masks;
   v. Roach clips: meaning objects used to hold burning material, that has become too small or too short to be held in the hand, such as a marijuana cigarette;
   vi. Miniature cocaine spoons, and cocaine vials;
   vii. Chamber pipes;
   viii. Carburetor pipes;
   ix. Electric pipes;
   x. Air-driven pipes;
   xi. Chillums;
   xii. Bongs;
   xiii. Ice pipes or chillers;
   xiv. Lighting equipment specifically designed for the growing of controlled substances.

Drug paraphernalia does not include hypodermic syringes or needles.

2. "Drug test" means a lawfully administered test designed to detect the presence of a controlled substance.

3. "Marijuana paraphernalia" means all equipment, products, and materials of any kind which are marketed for use or designed for us in planting, propagating, cultivating growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing in the human body marijuana .

4. "Marijuana facility" has the same meaning as in SMC 5.12.020.

9.40.030 FACTORS TO BE CONSIDERED

1. In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logical, relevant factors, the following:

   a. Statements by an owner or by anyone in control of the object concerning its use;

   b. Prior convictions, if any, of an owner, or of anyone in control of the object, under any Municipal, State, or Federal law relating to any controlled substance;

   c. The proximity of the object in time and space, to a direct violation of this chapter or ORS 475.840 to 475.980;

   d. The proximity of the object to controlled substances;

   e. The existence of any residue of controlled substances to the object;

   f. Instructions, oral or written, provided with the object concerning its use;

   g. Descriptive materials accompanying the object which explain or depict its use;

   h. The manner in which the object is displayed for sale;

   i. Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;

   j. The existence and scope of legitimate uses for the object in the community;

   k. All objects present, when viewed collectively, can have significant clues to their intended use as drug paraphernalia

9.40.040 OFFENSES

1. Possession of Drug Paraphernalia. It is unlawful for any person to use or to possess drug paraphernalia to unlawfully plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this chapter.

2. Delivery of Drug Paraphernalia. It is unlawful for any person to sell, deliver, possess with intent to sell or deliver, or manufacture with intent to sell or deliver drug paraphernalia as defined in this chapter.

3. Possession or Delivery of Drug Test Equipment. It is unlawful for any person to use, possess, deliver, or manufacture with intent to deliver any substance or device designed to enable a person to falsify a drug test as defined in this chapter.

9.40.050 NUISANCE

1. Drug paraphernalia are public nuisances. Any peace officer shall summarily seize any such drug paraphernalia. Seized drug paraphernalia shall be held subject to the order of the court.

2. Whenever it appears, to the court that a seized item constitutes drug paraphernalia in violation of this ordinance, the court shall, upon motion of the district attorney, order the forfeiture and destruction of the drug paraphernalia.

9.40.060 EXCEPTIONS

1. It is an exception to Section 9.40.040 (1) if the person has been issued a Oregon Medical Marijuana Program card or is 21 years of age or older, and possesses marijuana paraphernalia in accordance with applicable recreational and medical marijuana laws of the State.

2. It is an exception to Section 9.40.040 (2) to sell, or to possess with the intent to sell, marijuana paraphernalia at a marijuana facility licensed by the State and the City.

9.40.070 SEVERABILITY

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

TITLE 9. PUBLIC PEACE AND WELFARE

CHAPTER 9.44

PENALTY FOR VIOLATION

SECTIONS

9.44.010 VIOLATION: PENALTY

Violation of this title is punishable by a fine set by Council Resolution. (Ord. 977, December 2014)

TITLE 10.

VEHICLES AND TRAFFIC

CHAPTERS

TITLE 10. VEHICLES AND TRAFFIC

CHAPTER 10.04

GENERAL PROVISIONS

SECTIONS

10.04.010 CITATION

This Title may be cited and referred to as the City of Stayton Traffic Code.

10.04.020 DEFINITIONS

The words and phrases defined and used in the Oregon Revised Statutes are hereby adopted and shall be so defined and used in this code unless defined differently below. Except where the context clearly indicates a different meaning, the following words or phrases mean:

1. **BUS STOP:** A roadway space designated by sign for use by buses to load or unload passengers.

2. **COSTS:** The expense of removing, storing, and selling an impounded vehicle.

3. **LOADING ZONE:** A roadway space designated by sign for loading or unload ing passengers or materials during specified hours or specified days.

4. **PARK:** To stand, stop, or to cause or permit to remain stopped any vehicle or combination of vehicles, or any portion thereof, whether occupied or not, on any public street, public off-street parking facility, or other public right-of-way, including sidewalks, except such stops as are made in response to legal controls or requirements, conditions created by other traffic, emergencies related to the operation of the vehicle during the actual period of such emergency, or temporary stops for the purpose of and while actually engaged in loading or unloading property or passengers.

5. **PUBLIC PROPERTY:** Includes any property in the city owned by or dedicated to the city, and shall also include areas commonly used for public parking, whether owned by the city or not.

6. **STREET:** Alley, highway, roadway, or throughway, including the entire width of the right-of-way.

7. **TAXICAB STAND:** A roadway space designated by sign for taxicab use.

8. **TRAFFIC LANE:** That area of the roadway used for a single line of traffic movement.

9. **VEHICLE:** Any device in upon or by which any person or property is or may be transported or drawn upon a public highway and includes vehicles that are propelled or powered by any means including bicycles.

10.04.030 OREGON VEHICLE CODE ADOPTED: APPLICABILITY

1. The statutes and regulations of the State of Oregon and Marion County, Oregon, shall apply. Accordingly, the City of Stayton shall have the right to prosecute thereunder.

2. If any section or sections of the above described laws are hereafter declared to be invalid, unconstitutional, or unenforceable as in regards to the city of Stayton or the jurisdiction of the municipal court, it shall not affect any other section of the SMC.

TITLE 10. VEHICLES AND TRAFFIC

CHAPTER 10.08

ADMINISTRATION AND ENFORCEMENT

SECTIONS

10.08.110 ADMINISTRATION: COUNCIL AUTHORITY

1. Subject to state laws, the Council shall exercise all municipal traffic authority for the City, except those powers specifically and expressly delegated herein or by another section of this Title.

2. The powers of the Council shall include, but not be limited to:

   a. Designation of through streets.

   b. Designation of one-way streets.

   c. Designation of truck routes.

   d. Designation of bicycle routes.

   e. Designation of parking meters, parking zones, and permit zones.

   f. Restriction of the use of certain streets by any class or kind of vehicle to protect the streets from damage.

   g. Authorization of greater maximum weights or lengths for vehicles using City streets than specified by state law.

   h. Initiation of proceedings to change speed zones.

   i. Revision of speed limits in parks.

10.08.120 ADMINISTRATION: POLICE CHIEF AUTHORITY

The City Council may, by resolution, authorize the Chief of Police or designee to exercise the following duties:

1. Enforce ordinances, resolutions, and motions of the Council and the Chief of Police's own orders by installing, maintaining, removing, and altering traffic control devices. Installation shall be based on standards contained in the most current edition of the Manual on Uniform Traffic Control Devices for Streets and Highways and the Oregon Supplements.

2. Establish, remove, or alter the following classes of traffic controls:

    a. Crosswalks, safety zones, parking, signage, and traffic lanes.

    b. Intersection channelization and areas where vehicle drivers shall not make right, left, or u-turns and the time when the prohibition applies.

    c. Parking areas and time limitations including the form of permissible parking (e.g., parallel or diagonal).

3. Issue oversize or overweight vehicle permits.

4. Temporarily close or block streets.

10.08.130 AUTHORITY TO DIRECT TRAFFIC: PUBLIC DANGER

Under conditions constituting a danger to the public, the Police Chief or designee may install temporary traffic control devices (or procedures) deemed to be necessary for the public safety.

10.08.140 BASIS OF TRAFFIC REGULATIONS AND STANDARDS

The regulations of the Police Chief or designee shall be based upon:

1. Traffic engineering principles and traffic investigations.

2. Standards, limitations, and rules promulgated by the Oregon Transportation Commission.

3. Other recognized traffic control standards.

10.08.150 AUTHORITY OF POLICE AND FIRE OFFICERS

1. It is the duty of police officers to enforce the provisions of this traffic code.

2. In the event of a fire or other public emergency, officers of the police department and fire district may direct traffic as conditions require, notwithstanding the provisions of this chapter.

3. In the event a police officer initiates a traffic stop within the Stayton city limits that continues outside the Stayton city limits, the police officer shall, if necessary, dispose of the vehicle as if the vehicle were located within the Stayton city limits.

TITLE 10. VEHICLES AND TRAFFIC

CHAPTER 10.12

STOPPING, STANDING AND PARKING

SECTIONS

10.12.010 APPLICABILITY OF PROVISIONS

The provisions of this Chapter that regulate the parking or standing of vehicles do not apply to (Ord. 999, September 19, 2016):

1. A city, county, state, federal, or public utility vehicle being used for official purposes.

2. A vehicle of a disabled person in compliance with Oregon Laws.

10.12.020 PARKING SPACES: USE REQUIRED

Where parking space markings are placed on a street or public lot, no person shall stand or park a vehicle outside of a marked space unless the size or shape of the vehicle makes compliance impossible. A vehicle must fit within a parking space designated as "compact" parking space regardless of the vehicle size or shape.

When vehicles are parked or stopped on the public right of way, they must be parked in the direction of travel.

10.12.030 PARKING SPACES: USE PRIORITY

The operator who first begins maneuvering a motor vehicle into a vacant parking space on a street shall have priority to park within that space, and no other vehicle operator shall attempt to interfere.

10.12.040 PROHIBITED PARKING OR STANDING

1. No person shall park or stand any vehicle (Ord. 999, September 19, 2016):

   a. A vehicle in violation of the Oregon Revised Statutes;

   b. In any place adjacent to a curb which has been painted yellow either by the City or approved by the City which is on a city street, city owned public lot, property owned by the North Santiam School District, or the Stayton Fire District within the City of Stayton;

   c. Within any area designated as a fire lane or emergency vehicle parking with either red paint and/or signs whether on public property, premises open to the public, a private street, or property owned by the North Santiam School District or the Stayton Fire District within the City of Stayton;

   d. Within 15 feet of the driveway entrance to any fire station;

   e. Within 10 feet of a fire hydrant;

   f. On or over any curb, sidewalk, or roadside planting strip except to cross at an authorized permanent or temporary driveway. A person who causes damage shall be responsible for the cost of the repair to the curb, sidewalk, or street (Reference SMC 10.40.1040);

   g. Contrary to any official parking control device installed or approved by the City including temporary signage for City approved events;

   h. On or in a designated marked bicycle lane;

   i. In an alley except for a stop of not more than thirty (30) consecutive minutes for loading or unloading persons or material.

2. No person shall park any vehicle or trailer designed to be towed by a vehicle, on a street or parking strip within the City at any time if the motor truck, truck tractor, trailer, or pull trailer, or any combination thereof, is longer than 40 feet, wider than 8 feet 6 inches) or weighs in excess of 26,000 Gross Vehicle Weight (GVW), or any vehicle that requires an Oregon Commercial Driver's License ("commercial licensed driver") (Ord. 999, September 19, 2016).

3. A trailer designed to be pulled by another vehicle that is left unattached from the tow vehicle except:

   a. When engaged in the delivery or receipt of cargo and when no facilities for the receipt or discharge of the cargo exists except from the street or parking strip; or

   b. When the person in charge is immediately engaged in the maintenance or repair of public or private property adjacent to a street or parking strip and no off-street parking is reasonably available; or

   c. When a vehicle is parked in compliance with a camping permit which has been issued pursuant to SMC 8.12.020.

   d. A recreational vehicle or trailer, parked in front of the residence of the owner, for a period not to exceed 72 hours for the purpose of preparation of use or clean up after use.

   e. A utility trailer used for the purpose of a temporary construction/landscape project at the location/address it is parked at for a period not to exceed 72 hours.

4. No person in charge of any vehicle or trailer engaged in the delivery or receipt of cargo under the circumstances authorized in subsection 3 of this section shall park in such a manner that any part thereof shall project or be more than fifteen (15) feet into the street when measured at right angles from the face of the curb nearest to the motor truck, truck tractor, trailer, or pull trailer.

5. No person who is a driver or a passenger of a vehicle on a highway, road, or street within the city limits of Stayton shall give or relinquish possession of any item of property or money to a pedestrian.

   a. This section does not apply if the vehicle is legally parked.

   b. This section does not apply to postal carriers or newspaper delivery persons.

c. This section does not apply to a person or organization who has obtained a City Event Permit as authorized by SMC.

(Ord. 1026, October 4, 2018)

10.12.050 PARKING FOR CERTAIN PURPOSES PROHIBITED

No operator shall park a vehicle, and no owner shall allow a vehicle to be parked, on a street or other public property for the principal purpose of:

1. Displaying the vehicle for sale; or,
2. Repairing or servicing the vehicle except while making repairs necessitated by an emergency; or,
3. Displaying temporary advertising from the vehicle; or,
4. Selling merchandise from the vehicle except when authorized by the City.

(Ord. 999, September 19, 2016)

10.12.060 STORAGE OF VEHICLES ON STREETS

1. Except as otherwise provided in SMC Title 10 and SMC Chapter 8.12 no person shall store or permit to be stored on a street or other public property, a motor vehicle or other personal property for a period in excess of 72 hours. Failure to move a motor vehicle or other personal property for a period of 72 hours constitutes prima facie evidence of storage and may be towed in accordance with this Title.

2. Discarded Vehicles as defined in SMC Chapter 8.04 may not be stored on a street for more than 24 hours.

5. Personal property which is stored in violation of the provisions of this Chapter relating to storage of personal property on streets is subject to removal and disposal in accordance with SMC Chapter 2.64 and Oregon Revised Statutes.

(Ord. 999, September 19, 2016)

10.12.070 LOADING ZONE RESTRICTIONS

No person shall park or stand a vehicle in a place designated as a loading zone when the hours applicable to that loading zone are in effect for any purpose other than loading or unloading persons or material. Such a stop shall not exceed the time limits posted. If no time limits are posted, use of the zone shall not exceed thirty (30) minutes (Ord. 999, September 19, 2016).

10.12.080 BUSES AND TAXIS: BUSINESS DISTRICT RESTRICTIONS

The operator of a bus or taxicab shall not stand or park such vehicle upon a street in a business district at a place other than a designated bus stop or taxicab stand, respectively, except that this provision shall not prevent the operator of a taxicab from temporarily stopping the taxicab outside a traffic lane while loading or unloading passengers (Ord. 999, September 19, 2016).

10.12.090 BUSES AND TAXIS: RESTRICTED USE OF STANDS BY OTHER VEHICLES

No person shall stand or park a vehicle other than a taxicab in a taxicab stand, or a bus in a bus stop, except that the operator of a passenger vehicle may temporarily stop for the purpose of and while actually engaged in loading or unloading passengers, when stopping does not interfere with a bus or taxicab waiting to enter or about to enter the restricted space (Ord. 999, September 19, 2016).

10.12.100 EXTENSION OF PARKING TIME

Where maximum parking time limits are designated by sign, movement of a vehicle within a block shall not extend the time limits for parking (Ord. 999, September 19, 2016).

10.12.110 UNATTENDED VEHICLE: AUTHORIZED KEY REMOVAL

The conduct described in Oregon Revised Statutes, ORS 811.585 "Failure to Secure Motor Vehicle," is an offense against the City, and applies on any premises open to the public. In the event a Stayton Police Officer who finds a vehicle in violation of this Chapter due to the vehicle not being left in a safe circumstance such as the engine left running and/or with the vehicle unlocked, the ignition keys left in the vehicle, or the brake not set on a manual transmission vehicle, the Officer may take the necessary action to secure the vehicle to render it safe. The Officer may secure the vehicle and take the keys until the owner can be located (Ord. 999, September 19, 2016).

10.12.120 OBSTRUCTION OF EMERGENCY RESPONSE

1. Whenever the operator of a vehicle discovers the vehicle is parked close to a building to which the fire department has been summoned, the operator shall immediately remove the vehicle from the area unless otherwise directed by police or fire officers.

2. The Stayton Police Department, may have a vehicle towed to a safe location at the owner's expense if the owner cannot be located in a timely manner for a violation of SMC 10.12.040 subsections C through E. The vehicle would be towed under the provisions of ORS 819.120 "Hazardous Vehicle."

(Ord. 999, September 19, 2016)

10.12.130 ISSUANCE OF RESIDENTIAL PARKING PERMITS

1. A Residential Parking Permit shall be issued by the Chief of Police, or designee, upon application and without charge to the owner or operator of a motor vehicle who resides on property immediately adjacent to a street or other location within a residential permit parking zone.

2. The application for the permit shall contain the name of the owner or operator of the motor vehicle, residential address, and the motor vehicle's make and model. The owner or operator of any motor vehicle applying for a residential parking permit shall have a current and valid Oregon vehicle registration unless it is not legally required. The permit shall be renewed annually upon such conditions and procedures as the Chief of Police shall specify.

3. The Chief of Police is authorized to issue temporary residential parking permits to bona fide visitors at residences in designated residential parking zones.

10.12.140 PARKING IN RESIDENTIAL PERMIT PARKING ZONES

1. The holder of a residential parking permit which is properly displayed shall be permitted to stand or park the permitted motor vehicle operated by him in the appropriately designated residential parking zone.

2. While a motor vehicle for which a residential parking permit has been issued is so parked, such permit shall be displayed so as to be clearly visible in the vehicle's lower driver's side portion of the front windshield.

3. A residential parking permit shall not guarantee or reserve to the holder a parking space within a designated residential parking permit parking zone. A residential parking permit shall not authorize the holder thereof to stand or park a motor vehicle in a parking meter zone or in such places or during such times as the stopping, standing, or parking of motor vehicles is prohibited or set aside for specified types of vehicles, nor exempt the holder from the observance of any traffic regulation other than parking in a residential parking permit zone.

10.12.150 PARKING PERMIT VIOLATIONS

It shall be unlawful for:

1. Any person who represents that they are a person who is entitled to a residential parking permit when not so entitled to one.

2. Any person who fails to surrender a permit when the person is no longer entitled to it.

3. Any person who parks a vehicle displaying a residential parking permit at any time when that person is not entitled to it.

4. Any person to park in a designated residential permit parking zone without displaying a permit issued pursuant to this Chapter.

10.12.160 PARKING CITATION: ISSUANCE

1. In the event there is reasonable cause to believe that a vehicle is parked in violation of any of the provisions of SMC Chapter 10.12, or applicable state law, a citation (an unsworn written notice) in conformance with Oregon Law may be issued and the original filed with the , City of Stayton, and the court with jurisdiction over municipal ordinance matters.

2. The notice (which may be a copy of the citation issued) provided for above shall either be delivered to the defendant or placed in a conspicuous place on the vehicle involved in the violation. A duplicate original of the notice shall serve as the complaint in the case when it is filed with the Court. In all other respects the procedure otherwise provided by law in such cases shall be followed. The issuing officer need not have observed the act of parking, but need only have observed that the vehicle appeared to be parked in violation of SMC or Oregon law.

10.12.170 PARKING CITATION: FORFEITURES

1. **Bail Forfeiture within 30 Days of Violation:** Before midnight of the thirtieth day following the date of the alleged violation, any person charged with a violation of the SMC or applicable state statute may, without personal appearance before the judge hearing municipal ordinance matters, make a forfeiture deposit in the amount stated in the ‘Fees and Charges” resolution set by City Council for the following offenses (Ord. 999, September 19, 2016):

Prohibited Parking or Standing	SMC 10.12.040
Wrong Direction	ORS 811.570 (1)
Parking within 20' of Crosswalk	ORS 811.550(17)
Parking within 10' of Fire Hydrant	ORS 811.550(16)
Parking within 50' of Traffic Control Device	ORS 811.550(18)
Displaying for Sale	SMC 10.12.050

Displaying Advertising	SMC 10.12.050
Loading Zone	SMC 10.12.070
Parking on Sidewalk	ORS 811.550(4)/SMC 10.12.040
Blocking Driveway	ORS 811.550(15)
Parking on Bicycle Lane/Path	ORS 811.550(23), 811.550(24)
Disabled Person Zone	ORS 811.615(1)
Parking Within Intersection	ORS 811.550(5)
Double Parking	ORS 811.550(3)
Unlawful Vehicle Storage	SMC 10.060
Unlawful Repairing, Servicing	SMC 10.12.050
Other	

2. **Bail Forfeiture 31 to 60 days from day of Violation:** After the period set forth in Subsection 1 of this section, and before midnight of the sixtieth day following the date of the alleged offense, any person so charged may, without personal appearance before the Judge hearing municipal ordinance matters, make a forfeiture deposit in the amount designated in this Chapter. If paid after the designated time, the amount doubles the amount under Subsection 1 of this section. For example a $10.00 fee would become $20.00.

3. **Bail Forfeiture 61 days or more from date of Violation:** After the period set forth in Subsection 2 of this section, any person so charged may, without personal appearance before the Judge hearing municipal ordinance matters, make a forfeiture deposit in the amount designated in this Chapter. If paid after the designated time, the amount is four times the amount under Subsection 1 of this section. For example a $10.00 fee would become $40.00 and a $20.00 fee would become $80.00.

4. **Court's Discretion:** The Judge hearing municipal ordinance matters may, in the exercise of the Court's discretion and where it is deemed cause to exist thereof in a particular case, remit all or any portion of the forfeiture set forth in this Chapter.

5. **Effect of Forfeiture Deposit Not Accompanied by Answer:** Whenever a person charged with a violation of SMC or applicable state statute makes a forfeiture deposit in the sum fixed pursuant to SMC Chapter 10.12.170, but does not enter an answer either personally or in writing, such deposit shall be deemed an answer of "no contest," except that, if the deposit is accompanied by a writing which does not specifically state an answer, the municipal Judge may, in the Court's discretion, treat the writing as either an answer of "no contest" or an answer of denial, depending on the tenor of the defendant's statement as to the material facts of the alleged violation, or may require that the defendant enter a specific answer within seven (7) days, failure to enter which shall be deemed an answer of "no contest."

6. **Plea of Defendant:** Any person charged with a violation of SMC Chapter 10.12 or applicable state statute shall plead according to the options set forth by Oregon

Revised Statutes as stated on the reverse of the Oregon Uniform Traffic Citation and Complaint form.

a. Appearing before the municipal Judge and entering the plea in open court;

b. Entering the plea in writing, by regular mail or personal delivery, accompanied by the sum fixed as bail pursuant to SMC Section 10.12.170;

c. Depositing bail without a specific plea as provided in SMC Section 10.12.260.

7. **Powers of Court Upon 'No Contest' Plea:** Upon entry of a plea of "no contest" as provided in SMC Section 10.12.170, the Court may consider any oral or written statement given by the defendant, and may, on its own motion and in the interest of justice, order the charge dismissed and any bail returned to the defendant. Unless the Court dismisses the charge, the Court shall enter a judgment of conviction upon a plea of "no contest."

10.12.180 PARKING CITATION: IMPOUNDMENT OF VEHICLES FOR FAILURE TO COMPLY

When a vehicle is found parked in violation of SMC section 10.12or applicable state statute and the vehicle has five (5) or more outstanding citations or $200 or more in unpaid fines, any officer charged with the enforcement of this Title pursuant to SMC Section 10.08.150 may, in addition to or in lieu of issuing a parking citation, cause such vehicle to be impounded pursuant to this section and SMC Section 10.16, and an impounded vehicle shall not be released until all outstanding fines and charges are paid

10.12.190 PARKING CITATION: OWNER RESPONSIBILITY

The owner of a vehicle that is in violation of a parking restriction shall be responsible for the offense unless the operator used the vehicle without the owner's consent.

10.12.200 PARKING CITATION: REGISTERED OWNER PRESUMPTION

In a prosecution of a vehicle owner charged with a violation of a parking restriction in this title or applicable state law, proof that at the time of the alleged violation the vehicle was registered with the appropriate vehicle licensing authority of any state as belonging to the defendant shall raise a disputable presumption that the defendant was the owner in fact.

TITLE 10. VEHICLES AND TRAFFIC

CHAPTER 10.16

TOWING, STORAGE AND IMPOUNDMENT OF VEHICLES

SECTIONS

10.16.400 IMPOUNDMENT AND DISPOSITION OF VEHICLES: GENERAL REGULATIONS

1. In addition to the provisions herein, disposition of vehicles impounded, towed and stored shall be in accordance with Oregon law.

2. Impoundment of a vehicle does not preclude issuance of a citation for violation of a provision of this title.

3. A police officer who has probable cause to believe that a person, at or just prior to the time the police officer stops the person, has committed an offense described in this subsection may, without prior notice, order the vehicle impounded until a person with right to possession of the vehicle complies with the conditions for release (See ORS 809.720(3)) or the vehicle is ordered released by a hearings officer (See ORS 809.716). This subsection applies to the following offenses:

   (a) Driving while suspended or revoked in violation of ORS 811.175 or 811.182.

   (b) Driving while under the influence of intoxicants in violation of ORS 813.010.

   (c) Operating without driving privileges or in violation of license restrictions in violation of ORS 807.010.

   (d) Driving uninsured in violation of ORS 806.010.

4. Abandoned (ORS 819.100) or hazardous (ORS 819.120) vehicles removed by the City may be towed and stored at the owner's expense.

5. Stolen vehicles may be towed from public or private property and stored at the expense of the vehicle owner.

6. A vehicle abandoned, as defined by state law in relation to abandon vehicles is subject to removal and sale in accordance with provisions of state law.

7. A vehicle which is stored in violation of the provisions of this code relating to storage of motor vehicles on streets is subject to removal and sale in accordance with provisions of state law on impoundment and disposition of abandoned vehicles – ORS 819.100 to 819.260.

8. Vehicles removed and impounded pursuant to SMC Section 10.12.270 shall be taken to a public garage or other suitable place for storage of the vehicle, and kept until released or otherwise disposed of pursuant to this section.

    a. The owner of the vehicle, or any person authorized by the owner to act on the owner's behalf, may redeem the vehicle pursuant to the procedures of SMC Sections 10.16.410 through 10.16.490.

    b. A motor vehicle so impounded shall be held and, if not lawfully redeemed, shall be disposed of as provided in ORS 819.210 through 819.260. A certificate of sale referenced therein shall contain the following notice:

        > The City of Stayton makes no warranty as to the condition or title of the above-described vehicle. In the event this sale shall for any reason be invalid, the liability of the City is limited to return of the purchase price.

9. In the event the Stayton Police impound a vehicle from outside the Stayton city limits, such impoundment shall be in accordance with Oregon law and the provisions of the Stayton Municipal Code, and the charges assessed shall be pursuant to the Stayton Municipal Code.

10. If the public right of way needs to be closed temporarily for an official purpose such as (but not limited to) street maintenance or an event, the Chief of Police or designee may post the street with a 24 hour notice to remove any vehicles or privately owned property from the right of way. If the vehicles or the privately owned property are not removed within the 24hour period the vehicles and property may be removed by the City at the owner's expense per SMC.

10.16.410 IMPOUNDMENT AND STORAGE BY PRIVATE TOWING FIRM

1. In the enforcement and execution of the provisions of SMC Section 10.16.400, the City may contract the services of one or more competent towing service firms for the removal and storage of motor vehicles taken into custody of the City for any reason. The Stayton City Council shall by resolution establish a schedule of maximum charges for storage of such motor vehicles, which shall apply to vehicles stored by the City.

2. Where a private towing contractor is used, the following conditions shall apply:

    a. The City shall not be liable for services rendered by a private towing service unless the City is the purchaser or owner of the stored or impounded vehicle.

    b. The vehicle shall not be released from the private towing service except upon a receipt, signed by the Police Chief.

3. A towing service firm which, at the request of the City, takes a vehicle into custody shall have a lien on the vehicle and its contents for the just and reasonable towing charges, may retain possession of the vehicle and its contents until the charges are paid, and may cause the vehicle and its contents to be sold at public auction pursuant to SMC Section 10.16.470 and Oregon Revised Statutes.

10.16.420 POST-TOWING NOTICE TO OWNER

1. If a motor vehicle is taken into the custody of the City, the Chief of Police shall make reasonable efforts to ascertain the names and addresses of the registered owner and the legal owner, if any, and the person entitled to possession.

2. If the names and addresses of such owners or persons entitled to possession or either of them can be ascertained, the Chief of Police shall cause notice to be mailed within forty-eight (48) hours of the date of recovery, addressed to the registered owner of the vehicle and a similar letter addressed to the legal owner, if any. Such notice shall include the following information:

    a. The statute or SMC or rule under which the vehicle has been taken into custody or removed.

    b. The location where the vehicle may be redeemed by the owner or person entitled to possession upon satisfactory proof of ownership or right to possession.

c. That a lien has arisen on the vehicle in favor of the person who towed the vehicle for just and reasonable towing and storage charges.

d. The amount of any fines or bail which must be paid or posted pursuant to SMC Section 10.12.260.

e. The date after which the vehicle will be subject to public sale.

f. That a hearing on the validity of the tow and on the creation and amount of the lien may be had if requested within five (5) days of mailing of the notice.

g. That the costs of hearing may be assessed against the vehicle owner.

3. Actual notice of a tow may be given personally to the owner or person entitled to possession. Such actual notice must include all the information required under Subsection 2. of this section. Actual notice may be used in lieu of the mailed notice required by Subsection 2.

10.16.430 REASONABLE STORAGE CHARGE

The maximum charge per day for storage of a motor vehicle towed and stored by the City in a City owned location is set by "Fees and Charges" Resolution.

10.16.440 HEARING PROCEDURE

1. Upon written request of the legal owner or the registered owner or any other person who reasonably appears to have an interest in the vehicle, delivered to the court having jurisdiction over municipal ordinance or SMC matters, a hearing shall be held before the judge hearing municipal ordinance or SMC matters. The written request shall state the grounds upon which the person requesting the hearing believes that the removal and custody of the vehicle is not justified.

2. The hearing shall be set and conducted within two (2) regular court days of receipt of the request, holidays, Saturdays, and Sundays not included. The hearing can be set for a later date if the owner or person entitled to possession so requests. At the hearing the owner may contest:

a. The validity of the action of the enforcement officer in taking the vehicle into custody.

b. The reasonableness of the charge set for towing and storage of vehicle. Towing and storage charges set by ordinance or by contract entered into

pursuant to ordinance are presumed to be reasonable for the purpose of this section.

3. The City shall have the burden of showing the validity of the taking of the vehicle;

4. At any time prior to the requested hearing, the owner or the person entitled to possession of the vehicle may regain possession of the vehicle as provided by SMC Section 10.08.152 by depositing with the City security in the form of cash in an amount sufficient to cover costs of removing and storage and any fines or bails owed pursuant to SMC Section 10.12.340.

5. If the judge hearing municipal ordinance or SMC matters finds that:

   a. The action of the city in taking the vehicle into custody was proper, the judge hearing municipal ordinance or SMC matters shall enter an order supporting the removal and may assess costs of the hearing against the person requesting the hearing.

   b. The action of the enforcement officer in taking the vehicle into custody was invalid, the judge shall:

      i. Order the vehicle released to the owner.

      ii. Find that the owner is not liable for any towing or storage charges occasioned by the taking.

      iii. Order the City to satisfy the towing and storage lien.

6. If the person requesting the hearing does not appear at the scheduled hearing, the judge hearing municipal ordinance or SMC matters may enter an order supporting the removal and assessment of towing and storage costs and apply any security posted against such costs.

7. The action of the judge hearing municipal ordinance or SMC matters pursuant to this section is final.

10.16.450 OWNER RECLAIMING VEHICLE

The legal owner, registered owner, or person entitled to possession of an unclaimed vehicle may reclaim such vehicle during normal business hours of the Stayton Police Department Records Office. The vehicle may be reclaimed after the vehicle is taken into custody, and before it is sold, upon presentation of satisfactory proof of ownership or right of possession, proof of insurance, a licensed driver to the Stayton Police

Department and payment of an impoundment fee and storage charges or posting of security is made as required under this chapter. (Ord. 667, section 1[part], 1989) If redemption is not made after the vehicle is impounded, such vehicle shall be disposed of in accordance with provisions of state laws.

10.16.460 APPRAISAL OF UNCLAIMED VEHICLES

Within ten (10) days of any motor vehicle coming into the custody of the City for any reason, the Chief of Police shall cause such vehicle to be appraised by a person possessing a valid appraiser certificate under state law. (Ord. 667, section 1[part], 1989)

10.16.470 DISPOSITION OF MOTOR VEHICLE

Vehicles that have been unclaimed may be disposed of in accordance with the procedures set by Oregon Revised Statues 819.210 to 819.260.

10.16.480 RESERVED

10.16.490 TO BE HELD AT EXPENSE OF OWNER

Except as provided in SMC Section 10.16.440(4), unclaimed motor vehicles which come into the custody, actual or constructive, of the City for any reason shall be held at the expense of the owner and any costs incurred by the city in finding, transportation, giving of notices, storage, care, and custody of such property shall be paid by the owner or other person lawfully entitled to possession thereof before such property may be released.

TITLE 10. VEHICLES AND TRAFFIC

CHAPTER 10.28

BICYCLES

SECTIONS

10.28.710 RULES OF OPERATION

In addition to observing all other applicable provisions of this traffic code and state law pertaining to bicycles, a person shall:

1. Not leave a bicycle, except in a bicycle rack. If no rack is provided, the person shall leave the bicycle so as not to obstruct any roadway, sidewalk, driveway, or building entrance. A person shall not leave a bicycle in violation of the provisions relating to the parking of motor vehicles.

2. Not ride or operate a bicycle upon a sidewalk in a business district. A person riding a bicycle upon a sidewalk in any public place other than a business district shall yield the right-of-way to any pedestrian and shall give audible signal before overtaking and passing any pedestrian. (Ord. 667, section 1[part], 1989)

10.28.720 IMPOUNDMENT

1. No person shall leave a bicycle on public or private property without the consent of the person in charge or the owner thereof.

2. A bicycle left on public property in excess of twenty-four (24) hours may be impounded by the police department.

3. In addition to any citation issued, any bicycle parked in violation of this traffic code may be immediately impounded by the police department.

4. If a bicycle impounded under this ordinance is licensed, or other means of determining its ownership exists, the police shall make reasonable effort to notify the owner. No impounding fee shall be charged to the owner of a stolen bicycle which has been impounded.

5. A bicycle impounded under this ordinance which remains unclaimed shall be disposed of in accordance with Sections 2.64.010 to 2.64.070 of this code. (Ord. 667, section 1[part], 1989)

TITLE 10. VEHICLES AND TRAFFIC

CHAPTER 10.32

PEDESTRIANS

SECTIONS

10.32.810 CROSSING STREETS AT RIGHT ANGLES

A pedestrian shall cross a street at right angles unless crossing within a marked crosswalk. (Ord. 667, section 1[part], 1989)

TITLE 10. VEHICLES AND TRAFFIC

CHAPTER 10.36

EVENTS

SECTIONS

10.36.910 EVENT PERMIT REQUIRED

No person shall organize or participate in an event (including a parade) which may disrupt or interfere with traffic without obtaining a permit from the Chief of Police. A permit shall be required of :

1. Any procession of people and/or vehicles using the public right-of-way in the nature of an event including a parade but generally should not apply to funeral processions at the discretion of the Chief of Police in accordance with SMC Section 10.36.960; or

2. A public gathering or event that requires the stoppage of traffic for the gathering to be held.

3. With the issuance of a permit, the Chief of Police may grant the applicant or event organizer exclusive rights of use to the area designated for the parade or event.

10.36.920 EVENT PERMIT: APPLICATION

1. Application for event permits shall be made to the Chief of Police at least thirty (30) days prior to the intended date of the event unless the time is waived by Chief of Police.

2. Applications shall include the following information:

   a. The name and address of the person responsible for the proposed event.

   b. The date of the proposed event.

c. The desired route, including assembling points.

d. The number of persons, vehicles, and animals which will be participating in the event.

e. The proposed starting and ending times.

f. The application shall be signed by the person designated as chair/organizer.

g. The chair/organizer must provide a certificate of insurance liability listing the City of Stayton as insured for the amount recommended by the City of Stayton's insurance carrier.

3. The Chief of Police shall issue an event permit incorporating the terms set out in subsection 2, parts c. to e., conditioned on the applicant's written agreement to comply with terms of the permit unless the Chief of Police finds that:

a. The time, route, and size of the event will disrupt the movement of other traffic to an unreasonable extent.

b. The event is of a size or nature that requires the diversion of so great a number of law enforcement officers to properly police the line of movement and contiguous areas that allowing the event would deny reasonable law enforcement protection to the jurisdiction.

c. The event will interfere with another event or other activity for which a permit has been issued.

d. The event will cause a public safety issue that cannot be resolved.

e. Information contained in the application is found to be false or a material detail is omitted.

f. The applicant refuses to agree to abide by or comply with all conditions of the permit.

4. If one or more of the conditions listed in Subsection 3., other than Subpart e. or f., exists, the Chief of Police may include provisions in the permit that are necessary to alleviate the conditions, including but not limited to:

a. Requiring an alternate date/time.

b. Requiring an alternate route/location.

c. Restricting the size of the event.

d. Require traffic control signage.

e. Require traffic control people/flaggers.

f. Require law enforcement or security presence at the expense of the chair/organizer.

5. The Chief of Police shall notify the applicant of the decision within fourteen (14) days of receipt of the application.

6. If the Chief of Police proposes alternatives or refuses to issue a permit, the applicant shall have the right to appeal the decision to the Council.

10.36.930 EVENT PERMIT: APPEALS

An applicant may appeal the decision of the Chief of Police by filing a written request of appeal with the City Administrator within seven (7) days after the Chief of Police has proposed alternatives or refused to issue a permit. The Council shall schedule a hearing date which shall not be later than the second regular sessions following the filing of the written appeal with the City Administrator, and shall notify the applicant of the date and time to appear either in person or by a representative. Any determination by the Council shall be final.

10.36.940 EVENT PERMIT: REVOCATION

The Chief of Police may revoke an event permit if circumstances clearly show that the event can no longer be conducted consistent with public safety.

10.36.950 PROHIBITED ACTIVITIES DURING EVENTS

1. No person shall unreasonably interfere with an event or an event participant.

2. No person shall operate a vehicle or conduct any other activity that is not part of the event between the vehicles or persons comprising the event.

10.36.960 FUNERAL PROCESSION: VEHICLE OPERATION

1. The size and nature of the funeral procession may require an event permit at the discretion of the Chief of Police.

2. A funeral procession shall proceed to the place of interment by the most direct route which is both legal and practicable.

3. The procession shall be accompanied by adequate escort vehicles for traffic control purposes.

4. All motor vehicles in the procession shall be operated with their headlights turned on.

5. No person shall unreasonably interfere with a funeral procession.

6. No person shall operate a vehicle that is not part of the procession between the vehicles of a funeral procession.

10.36.970 FUNERAL PROCESSION: DRIVER REQUIREMENTS

Except when approaching a left turn, each driver in a funeral procession shall drive along the right hand traffic lane and shall follow the vehicle ahead as closely as is practicable and safe.

TITLE 10. VEHICLES AND TRAFFIC

CHAPTER 10.40

MISCELLANEOUS REGULATIONS

SECTIONS

10.40.1010 CROSSING PRIVATE PROPERTY

No operator of a vehicle shall proceed from one street to an intersecting street by crossing private property. This provision shall not apply to the operator of a vehicle who stops on the property to procure or provide goods or services.

10.40.1020 PASSENGER RESTRICTIONS

1. No operator shall permit a passenger and no passenger shall ride on a vehicle upon a street except on a portion of the vehicle designed or intended for the use of passengers. This provision shall not apply to an employee engaged in the necessary discharge of duty or to a person riding within a truck body in space intended for merchandise.

2. No person shall board or alight from a vehicle while the vehicle is in motion upon a street.

10.40.1030 SKATEBOARDS, SKIS, TOBOGGANS, AND SLEDS: USE RESTRICTIONS

No person shall use the streets for traveling on roller-skates, skateboards, skis, toboggans, sleds, or similar devices except where authorized by the chief of police.

10.40.1040 DAMAGING SIDEWALKS AND CURBS

1. The operator of a motor vehicle shall not drive or park upon a sidewalk or roadside planting strip except to cross at a permanent or temporary driveway.

2. No unauthorized person shall place dirt, wood, or other material in the gutter or space next to the curb of a street with the intention of using it as a driveway.

3. No person shall remove a portion of a curb or move a motor vehicle or device moved by motor vehicle upon a curb or sidewalk without first obtaining authorization and posting a bond if required by ordinance. A person who causes damage shall be held responsible for the cost of repair.

10.40.1050 RESERVED

10.40.1060 TRUCK ROUTES

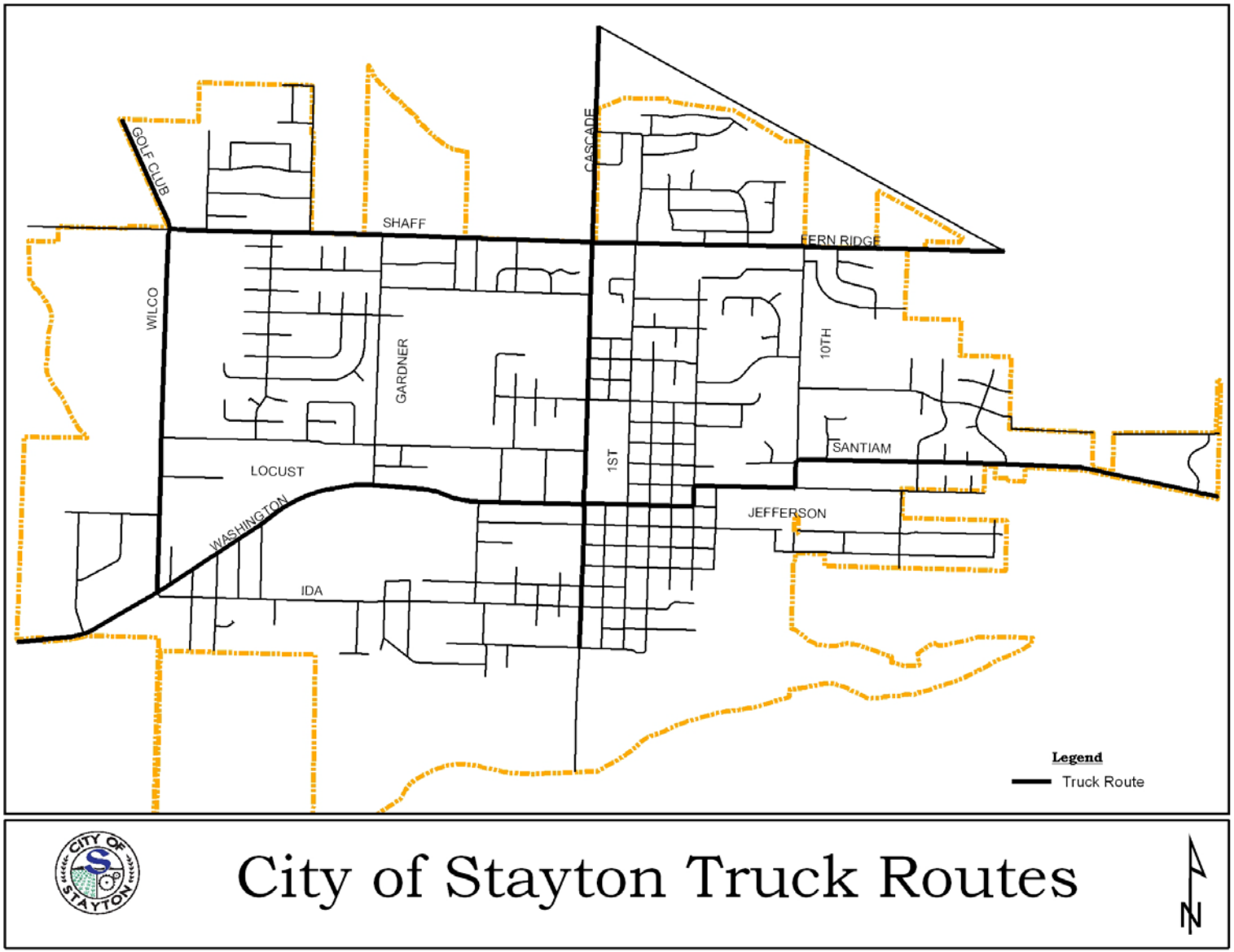
No person shall operate a vehicle which weighs in excess of fifteen tons (30,000 pounds) gross weight on any street except:

1. When the vehicle is immediately engaged in the maintenance or repair of public or private property, and then only by entering such streets at the intersection nearest the destination of the vehicle and leaving by the shortest route.

2. When the vehicle is being used for the purpose of delivering or picking up materials or merchandise, and then only by entering such streets at the intersection nearest the destination of the vehicle and leaving by the shortest route.

3. When operating a vehicle on a street or a section thereof designated a truck route in the adopted Stayton Transportation System Plan.

NOTE: Figure 10.40.1060.1, on the following page shows the Truck Routes as designated in the 2004 Stayton Transportation System Plan.



City of Stayton Truck Routes

TITLE 10. VEHICLES AND TRAFFIC
EXHIBIT A

CHAPTER 10.44

SPECIFIC PENALTIES

SECTIONS

10.44.1110 SPECIFIC PENALTIES

1. Violation of any provision of Title 10 is an infraction and punishable by the terms and conditions established by Stayton Council Resolution.

2. Violation of a provision identical to a state statute may be punishable by the penalty prescribed by the state statute.

TITLE 12.

STREETS, SIDEWALKS, AND PUBLIC PLACES

CHAPTERS

TITLE 12. STREETS, SIDEWALKS, AND PUBLIC PLACES

TITLE 12.04

CONSTRUCTION AND MAINTENANCE OF STREETS, SIDEWALKS, AND CURBS

SECTIONS

12.04.010 PURPOSE OF PROVISIONS

The purpose of this Chapter is to establish standards and uniform policies for the construction, improvement and maintenance of public streets and sidewalks within the City. (Ord. 646, section 1[part], 1988: prior code section 4.305) (Ord. 940, January 2012)

12.04.020 DEFINITIONS

This Chapter's terms, phrases, words, abbreviations, and their derivatives shall be construed as specified herein. When not inconsistent with the context, words used in the present tense include the future; words in the plural number include the singular number; and words in the singular number include the plural number. The word Ashall@ is always mandatory and not merely directory. (Ord. 940, January 2012: prior code section 4.015)

FACILITY: Pipe, pipeline, tube, main, service trap, vent, vault, manhole, meter, gauge, regulator, valve, conduit, wire, tower, pole, pole line, anchor, cable, junction box, transformer, or any other material, structure, or object of any kind or character, whether enumerated herein or not, which is or may be lawfully constructed, left, placed, or maintained in, upon, along, across, under, or over any public place.

PERMITTEE: Any person, firm, partnership, association, corporation, company, or organization of any kind on whose behalf a right-of-way construction permit is obtained.

PERSON: As defined in SMC Chapter 1.04.

PUBLIC FACILITY: Any facility which is immediately or is eventually to be taken over by the City for maintenance and operation. Facilities include, but are not limited to, public utilities, traffic signals and controls, streets, sidewalks, curbs, parking lots, driveways, public buildings, and properties. (Ord. 940, January 2012)

PUBLIC PLACE: Any public street, street right-of-way, place, alley, sidewalk, park, square, plaza, or any other public property owned or controlled by the State of Oregon, the City, Marion County or any other political subdivision of the State of Oregon. (Ord. 940, January 2012)

PUBLIC WORKS DIRECTOR: The Public Works Director for the City of Stayton or designee. (Ord. 940, January 2012)

PUBLIC WORKS FACILITIES: All public streets and public utility systems which are constructed to be immediately or eventually owned, operated and maintained by the City. (Ord. 940, January 2012)

RIGHT OF WAY: Any opened or unopened street, easement, place, alley, square, plaza or public property owned or controlled by the State of Oregon, City, Marion County or any other political subdivision of the State of Oregon. (Ord. 940, January 2012)

SIDEWALK: A path along the side of a road or street designated for pedestrians and sometimes for the use of nonmotorized vehicles. (Ord. 940, January 2012)

STANDARD SPECIFICATIONS: The uniform design standards and construction specifications for public works facilities for the City of Stayton as adopted by SMC Chapter 12.08 under which all public works facilities shall be constructed in the City. (Ord. 746, ' 1, June 1995) (Ord. 940, January 2012)

STAYTON TRANSPORTATION SYSTEM PLAN: The *"City of Stayton Transportation System Plan"* that complies with LCC Goal 12, the Transportation Planning Goal, and that has been approved by the City Council. (Ord. 940, January 2012)

STREET IMPROVEMENT: A roadway improvement for the use of motorized vehicles in the public right of way which includes, but is not limited to, pavement surface, base rock, curbs, storm drainage facilities, bridges, bike lanes, traffic signals, signage, striping, landscaping, streetscape elements and/or other special structures.
(Ord. 940, January 2012)

12.04.030 COMPLIANCE REQUIRED GENERALLY

1. Except as provided in Sections 12.04.040 through 12.04.380 of this chapter, no person shall construct any building or structure or parking lot improvements within the City and no parcel of land shall be divided within the City, unless:

   a. The street(s) and sidewalk(s) bordering such lot or area are fully improved to City standards and

   b. The right-of-way adjacent to the property has been dedicated to he City of Stayton, Marion County or the State of Oregon

   All street improvements and right-of-way dedications shall comply with the requirements of this Chapter, the Stayton Transportation System Plan, SMC Chapter 12.08 "Standard Specifications", and SMC Chapter 17.26 "Transportation Requirements".

2. No street or sidewalk shall be constructed, replaced or repaired unless such work complies in all manner with the provisions of this Title. (Ord. 940, January 2012)

3. If the City determines a dedication of right-of-way is needed, the Public Works Director shall verify there is a rough proportionality between the required dedication

and the impact from the proposed site specific development for which the permit is being applied before placing any dedication requirement as a condition of approval. The Public Works Director shall have the right to modify and/or waiver any dedication requirements of SMC Title 12 and SMC Title 17 so that the dedication requirements are roughly proportional to the site specific impacts of the proposed development. Any modification or waiver granted pursuant to this Chapter is subject to review by the City Council pursuant to Section 12.04.090 herein. (Ord. 878, section 1, April 4, 2005; Ord. 886, section 1, February 6, 2006) (Ord. 940, January 2012: prior code section 4.020)

12.04.040 EXEMPTIONS

1. A person applying for a building permit to perform any of the following activities will be exempt from all street and sidewalk improvements of this Chapter if no curb cut is required:

   a. Demolition of an existing structure;

   b. Construct an accessory building which will not be used for human occupancy;

   c. Maintaining, remodeling, or repairing an existing structure; or

   d. Construction an addition to an existing structure not to exceed 300 sq. ft. in size. (Ord. 940, January 2012)

2. In any case, where a street or sidewalk improvement is constructed as a conditional of approval for a land use permit required by SMC Chapter 17.12 "Development Approval", or SMC Chapter 17.24 "Land Divisions", the requirements of this Chapter are deemed to be satisfied.(Ord. 646, section 1[part], 1988: prior code section 4.316; Ord. 878, section 1, April 4, 2005; Ord. 886, section 1, February 6, 2006) (Ord. 940, January 2012: prior code section 4.030)

12.04.050 SITE INSPECTION: BUILDING PERMIT REQUIREMENTS

1. The Public Works Director or designee will inspect any site for which an application for a building permit has been filed to determine if the adjacent street and sidewalk comply with the provisions of this chapter.

2. If the street and sidewalk improvements do not comply and are required, no building permit shall be issued unless:

   a. The required street and sidewalk improvements are installed; or

   b. An exemption has been granted under Section 12.04.040 of this Chapter; or

   c. The applicant has obtained a Right of Way permit for the required street, and/or sidewalk improvements under Section 1.04.120 of this Chapter; or

   d. The City and applicant have executed an agreement stating that the required street and sidewalk improvements shall be installed prior to final inspection and/or the issuance of a certificate of occupancy; or

   e. The city and property owner have executed and recorded in the Marion County Deed Records an agreement stating that any of the required improvements are deferred in accordance with Section 12.04.080 of this chapter; or

f. A waiver has been granted by the City in accordance with Section 12.04.080 of this chapter. (Ord. 940, January 2012: prior code section 4.040) (Ord. 646, section 1[part], 1988: prior code section 4.318)

12.04.070 WAIVER OR MODIFICATION OF REQUIRED STREET RIGHT-OF-WAY DEDICATION.

1. Any applicant for a building permit may file a written request that the City modify the street dedication width or grant a waiver to the street right-of-way dedication requirements that are specified in the City's Standard Specifications or the Stayton Transportation System Plan. (Ord. 940, January 2012)

2. The following items do not normally constitute unusual circumstances which warrant granting a modification or waiver of street right-of-way dedication requirements:

   a. Financial hardship of the applicant and/or property owner.

   b. Other properties on the street have not dedicated additional right-of-way.

   c. The City did not require a right-of-way dedication for the property when the City issued a prior building permit or granted a development approval or land division approval. (Ord. 940, January 2012)

3. Upon review of a written request for modification or waiver, the Public Works Director may either: (1) deny the request, (2) modify the street dedication width or (3) grant a waiver of the required street dedication. The Public Works Director may modify the street dedication requirement or grant a waiver if the Public Works Director finds any of the following circumstances exist:

   a. The Stayton Transportation System Plan shows the additional right-of-way is not needed.

   b. The City has adopted a refinement plan that shows the future right-of-way width for the street shall be less than the requirements in the City's Standard Specification or in the Stayton Transportation System Plan.

   c. The required right-of-way dedication requirement is not roughly proportional to the site specific impacts of the proposed development.

   d. Unusual circumstances or peculiarities of the site exist which, in the opinion of the Public Works Director, warrant a modification or waiver of the street dedication requirement.

4. Notice of Decision: The Public Works Director shall provide the applicant with a written notice of the decision. A copy of the decision shall be provided to the City Council. The decision shall become final fourteen (14) days after the written Notice of Decision is mailed, unless the decision is appealed to the City Council pursuant to Section 12.04.090 of this Chapter.

12.04.080 WAIVER OR DEFERRAL OF REQUIRED STREET IMPROVEMENTS

1. Any applicant for a building permit may file a written request that the City grant either a waiver exempting the applicant's property from the required street and/or sidewalk improvement requirements or defer the construction of the required improvements. (Ord. 940, January 2012: prior code section 4.060)

2. The following items do not normally constitute unusual circumstances which warrant granting of a deferral or waiver of street and/or sidewalk improvement requirements:

   a. Financial hardship of the applicant and/or property owner.

   b. Lack of street improvements or sidewalks on adjacent properties.

   c. Cost of the improvement.

d. The City did not require the street or sidewalk improvement(s) for the property when the City issued a prior building permit or granted a development approval or land division approval.

3. Upon review of a written request for deferral or waiver, the Public Works Director may either: (1) deny the request, or (2) grant a deferral of any or all of the required improvements or (3) grant a waiver of any or all of the required improvements. The Public Works Director may defer the street and/or sidewalk improvement or grant a waiver if the Public Works Director finds that:

   a. Street widening or street corridor improvements are planned within five (5) years and the exact design or width of the future street has not yet been determined.

   b. Physical obstructions including steep banks or drainage channels exist on the site which would require extensive public or private improvements in addition to the street or sidewalk construction.

   c. Public improvement projects are planned in the next five (5) years which would require the City to remove the street or sidewalk improvements.

   d. The City has a public improvement project scheduled for construction in the immediate vicinity of the applicant's property. In lieu of applicant constructing the required improvements, the applicant may make a cash payment to the City based on the proportionate benefit of the public improvement to the property and the City agrees it shall install the required public improvement concurrently with the City's planned project.

   e. The required street improvement requirement is not roughly proportional to the site specific impacts of the proposed development.

   f. Unusual circumstances or peculiarities of the site exist, which, in the opinion of the City, warrant a waiver or deferral of required street or sidewalk improvements.

4. If the Public Works Director grants a deferral of the street or sidewalk improvement, the property owner shall execute and file an agreement with the City which:

   a. Describes the improvements that have been deferred; and

   b. States the period of time within which the required improvements shall be installed; and,

c. States the agreement is terminated upon installation of all required street and sidewalk improvements; and

d. States that if the improvements are not installed by the applicant, the property owner shall participate in a Local Improvement District in accordance with this Chapter; and

e. States the property owner waives the right to remonstrate against any Local Improvement District initiated to install the required street and sidewalk improvements.

f. Upon execution of the agreement by both parties, the agreement will be recorded by the City in the Marion County Deed Records. After recording of the deferral agreement, the building permit may be issued when all other requirements are met. The deferral of any street or sidewalk improvement applies only to the specific building permit application. The deferral is not transferable or applicable to any future building permit, development or land division application. (Ord. 646, section 1[part], 1988: prior code section 4.322) (Ord. 940, January 2012)

5. If the Public Works Director grants a waiver of any or all of the street or sidewalk improvements, the building permit may be issued when all other requirements are met. The waiver of any street or sidewalk improvement applies only to the specific building permit application. The waiver is not transferable or applicable to any future building permit, development or land division application.

6. Notice of Decision. The Public Works Director shall provide the applicant with written notice of the Public Works Director's decision to defer the installation of public improvements or to waive the public improvement requirements. The decision shall become final fourteen (14) days after the date the written Notice of Decision is mailed, unless the decision is appealed to the City Council pursuant to Section 12.04.090. (Ord. 940, January 2012: prior code section 4.040)

12.04.090 CITY COUNCIL REVIEW AND APPEALS

1. Appeal to City Council. The Public Works Director's decision to approve, deny, modify or waive the street right-of-way dedication requirements under Section 12.04.070 or to approve or deny a deferral or waiver of street improvement requirements under Section 12.04.080 may be appealed by an affected party to the City Council within fourteen (14) days of the mailing of the Notice of Decision. The appeal shall be in writing and shall

clearly state the issue being appealed and the grounds for the appeal. The City Council shall consider the appeal at a regularly scheduled meeting, no later than 45 days from the date of the City's receipt of the appeal. The City Council may, at its discretion, (1) remand the issue back to the Public Works Director for reconsideration, (2) grant the request on appeal, with or without conditions or (3) deny the request on appeal based on the record.

2. Council Decision Final. The decision of the City Council is final. 12.04.090 (Ord. 940, January 2012)

12.04.100 STREET SPECIFICATIONS

1. Before any street improvement is made under the provisions of this chapter, the Applicant or the property owner's representative shall submit design plans to the City for review and approval.
2. The person responsible for constructing any street in accordance with this Chapter shall conform to the City's Standard Specifications. (Ord. 940, January 2012:prior code section 4.070)

12.04.110 EXTENT OF IMPROVEMENTS

1. If a single improvement is to be constructed on a new street and the improvement also owns the property on the opposite side of the street, the owner shall improve the street for its entire width and extending at least the total frontage of the lot to be improved. (Ord. 940, January 2012: prior code section 4.080)

2. If the opposite side of the street of a lot to be improved is in different ownership, the street improvement shall be ¾ street improvement as defined in the City's Standard Specifications.(Ord. 646, section 1[part], 1988: prior code section 4.330)

12.04.120 RIGHT-OF-WAY PERMIT: REQUIRED

1. The following is a list of right-of-way permits which may be issued by the City for use of a public right-of-way:

   a. Right-of-Way Construction Permit: This permit covers the construction of streets, alleys, sidewalks, driveway approaches, curbs and other improvements within the City of Stayton public rights-of-way and/or easements. This permit also covers the cutting and excavation of streets or alleys and construction of all subsurface utilities within the City of Stayton public rights-of-way and/or

easements.

b. Right-of-Way Encroachment Permit: This permit covers the long term use of public rights-of-way and/or easements to construct or maintain a structure encroaching upon such public rights-of-way and/or easements. An encroachment structure shall include any tower, pole, pole line, deck, billboard, stand or building, landscaping, parking, or any other such object or structure that is placed in, upon, under or over any public street or alley right of way, or other public property.

c. Right-of-Way Closure Permit: This permit covers the temporary closure of sidewalks, streets, traffic and bicycle lanes, alleys, parking spaces, paths, and any other pedestrian and/or vehicular access within the City of Stayton public right-of-way and/or easements. A right-of-way closure permit may be issued as part of a Right-of-Way Construction Permit or may be issued by the Stayton Police Department in compliance SMC Chapter 10.36. Closures on state highways or county roads may require additional permits from ODOT or Marion County. (Ord. 940, January 2012: prior code section 4.090)

2. Any person desiring to (1) construct, repair or replace a surface or subsurface public improvement or utility in a public right-of-way, (2) construct or maintain a structure encroaching into the public right-of-way, and/or (3) temporarily close a right-of-way or easement shall obtain a permit from the City. (Ord. 940, January 2012)

3. The permit application shall describe the location of the proposed improvements, include design plans for the proposed public improvements, and contain a statement that the person constructing the improvements shall comply with the requirements of this Chapter, any applicable provisions of the City's Standard Specifications and the general terms and conditions of listed on the permit.

4. If the Public Works Director, or designee, is satisfied that all applicable requirements are met, a permit to build, improve or repair the street or sidewalk shall be issued to the permittee. (Ord 746, ' 3, June 1995) (Ord. 940, January 2012)

5. The permittee shall notify the Oregon Utility Notification Center and obtain required utility locates prior to beginning work.

12.04.130 RIGHT-OF-WAY PERMIT: CHARGES

1. The City Council may establish application and inspection fees for permits by resolution.

2. The application fee for a permit shall be doubled if the start of construction or use of the right-of-way occurs prior to the issuance of the permit. (Ord. 746, ' 4, June 1995) (Ord. 940, January 2012: prior code section 4.091)

12.04.140 RIGHT-OF-WAY PERMIT: CHARGES FOR EARLY EXCAVATION

1. To conserve new paving and resurfacing of streets, pavement cuts in travel lanes are prohibited for one (1) year after final approval of pavement placement, except when a contractor places new pavement along the full length of the cut, plus 10 feet at both ends of the cut, and across the full width of the street.

   After the one (1) year moratorium pavement may only be cut upon payment of a penalty charge. The maximum period of time for which such penalty shall apply shall be five years.

   a. The charge for early excavation of any public facility shall be a specified cost per square foot of excavation (length x width = square foot of excavation) multiplied by the number of years remaining in the penalty period. The specified cost per square foot shall be set by resolution.

First year after surfacing:	As Stated Above.
Second year after surfacing:	Cost x square footage of excavation x 4
Third year after surfacing:	Cost x square footage of excavation x 3
Fourth year after surfacing:	Cost x square footage of excavation x 2
Fifth year after surfacing:	Cost x square footage of the excavation

   b. The City will inform utilities and affected property owners before new paving or resurfacing is performed. Whenever practicable, the City will provide a tentative list of street improvements six months prior to construction.

   c. Potholing smaller than four square yards shall be allowed outside the travel lanes without penalty. (Ord. 746, section 5, June 1995; Ord. 874, section 43, 2004) (Ord. 940, January 2012: prior code section 4.092) (Ord. 981, May 2015)

12.04.150 RIGHT-OF-WAY PERMIT: INSURANCE, BONDING AND WARRANTY REQUIRED

1. The permittee shall comply with the insurance, bonding and warranty requirements specified in the City's Standard Specifications.

2. Utility companies which have a franchise for service in the City of Stayton and have a written franchise agreement with the City shall be exempt from meeting the

insurance and bonding requirements for each right-of-way permit.[1] (Ord. 940, January 2012: prior code section 4.093)

12.04.160 RIGHT-OF-WAY PERMIT: MAINTENANCE

1. Patches or excavations within the public right-of-way in need of maintenance shall be reported to the Public Works Director. In most cases, a utility cut requires maintenance or repair if any part of the replacement surfacing deviates more than one-half inch from the finished surface street grade or one-quarter inch from a finished sidewalk grade.

2. If, upon reasonable notice, the permittee fails to restore and maintain the right-of-way affected by the permittee's work, the City may perform the work and charge the cost to the permittee.

3. If, in the judgment of the Public Works Director, a hazardous or dangerous condition exists that affects the public health, safety and welfare, the City may take necessary corrective action to remove the hazardous conditions without prior notification to the permittee and charge the cost thereof to the responsible party.

4. Nothing in this Chapter shall be construed to prevent the making of such excavations as may be necessary for the preservation of life or property or for making emergency repairs to a public or private utility within the public right-of-way, provided that the person making such excavation shall apply for right-of-way permit on the first working day after such work is commenced. Emergency excavation does not release the permittee from any obligation or any penalties or regulations that would normally apply. (Ord. 940, January 2012: prior code section 4.094)

12.04.170 RIGHT-OF-WAY PERMIT: COMPLIANCE WITH STANDARD SPECIFICATIONS

Work done under a right-of-way construction permit must (1) meet or exceed the requirements of the Standard Specifications for public works design and construction in the City of Stayton as provided in SMC Chapter 12.08 that are in effect at the time the permit is issued and (2) comply with all other public works conditions required by SMC Title 12. (Ord. 746, Section 8, June 1995) (Ord. 940, January 2012: prior code section 4.095)

[1] Utility companies include Pacificorp, Northwest Natural Gas, Stayton Cooperative Telephone Company, WAVE Broadband or similar utility or telecommunication corporations.

12.04.180 RIGHT-OF-WAY PERMIT: CLEAN-UP REQUIRED

As the excavation work progresses, the affected area of the public right-of-way shall be kept thoroughly cleaned of all rubbish, excess earth, rock and other debris resulting from such work. All clean up operations at the location of such excavation shall be accomplished at the expense of the permittee and shall be completed as directed by the City, and in any event immediately after completion of the work. If the permittee fails to comply with clean up requirements of SMC Title 12, either within 24 hours of the completion of the project or as directed by the City, then the City may cause the clean-up work to be completed and the costs will be charged to the permittee. (Ord. 746, Section 9, June 1995) (Ord. 940, January 2012: prior code section 4.096)

12.04.190 CURB AND SIDEWALK CONSTRUCTION: INITIATION BY RESOLUTION

1. Whenever the City Council determines that any new curb and/or sidewalk shall be constructed within the City, it shall enact a resolution to that effect, describing the location, the work to be completed and the time within which the work shall be completed.

2. The City Council shall allow a minimum of sixty (60) days for the benefitting property owners to complete the construction of the curb and/or sidewalk.

3. The resolution shall state whether the curbs and/or sidewalks are to be constructed at the expense of the benefitting property owners or at the expense of the City. (Ord. 746, Section 1 (part), 1988; prior code section 4.340) (Ord. 940, January 2012: prior code section 4.100)

12.04.200 CONSTRUCTION BY PROPERTY OWNERS

If any curb and/or sidewalk is to be constructed at the expense of the benefitting property owner(s), a notice containing the substance of the resolution required in Section 12.04.190 shall be sent by regular and/or certified mail to the owner(s) of record of any benefitting parcel(s) of property. Such mailing is deemed equivalent to personal service. (Ord. 646, section 1 (part), 1988: prior code section 4.345) (Ord. 940, January 2012: prior code section 4.110)

12.04.210 CREATION OF LOCAL IMPROVEMENT DISTRICT

If the improvement of the street or sidewalk along any one lot or area would be impractical in the City's judgment and additional street area should be included in the improvement, the City Council may create a local improvement district and assess the benefitting property owner(s) for the work done. The assessment shall be imposed in compliance with either Section 12.04.220

through 12.04.240 of this Chapter, SMC Chapter 3.08 "Advanced Financing of Public Improvements" and SMC Chapter 12.12 "Public Improvements". (Ord. 646, section 1 (part), 1988: Ord. 535, 1980: prior code section 4.333) (Ord. 940, January 2012: prior code section 4.120)

12.04.220 CONSTRUCTION BY CITY: ADVERTISEMENT FOR BIDS

1. If any property owner fails to construct any street or sidewalk in compliance with all applicable provisions of this Chapter, the City may advertise for bids for the construction of such street or sidewalk and may enter into a contract with the selected responsible bidder to accomplish the task.

2. In lieu of subsection 1 of this Section, the City Council may direct the work to be done by the City. (Ord. 646, section 1 (part), 1988; prior code section 4.350) (Ord. 940, January 2012: prior code section 4.130)

12.04.230 CONSTRUCTION BY CITY: ASSESSMENTS

Upon completion of any work in accordance with Section 12.04.220 of this Chapter, the City Council shall assess upon each benefitting parcel of land its proportionate share of the cost of the work, which may include construction, engineering, legal, bonding, interest and administrative costs. (Ord. 646, section 1 (part), 1988; prior code section 4.352) (Ord. 940, January 2012: prior code section 4.140)

12.04.240 CONSTRUCTION BY CITY: LIEN AGAINST PROPERTY

1. Where the City has constructed or repaired any street or sidewalk in compliance with Section 12.04.220 of this Chapter, each benefitting parcel of land shall be liable for the full amount assessed against the property.

2. Any expenses incurred by the City in accordance with Subsection 1. of this Section shall be billed to the affected property owner with payment due within thirty (30) days of the mailing date.

3. If the assessment is not paid in full within thirty (30) days of the mailing date, the Finance Director may make monthly, quarterly or other payment arrangements with the property owner.

4. In addition to Section 3 above, if the assessment is not paid within thirty (30) days after notice thereof is provided by mail to the affected property owner, the City may proceed to enter an assessment lien against the property, in the amount of the assessment, plus

any legal, bonding, interest and administrative costs, to be collected and enforced as other City liens. (Ord. 646, section 1 (part), 1988; prior code section 4.360) (Ord. 940, January 2012: prior code section 4.150)

12.04.250 MAINTENANCE OF STREETS

1. The State of Oregon Department of Transportation and Marion County are responsible for maintenance of streets under their ownership and jurisdiction.

2. The City of Stayton is responsible for maintenance of streets under the City's jurisdiction. The City sets the following priorities for use of its financial resources for street maintenance:

   a. Arterial streets.
   b. Collector streets.
   c. Local streets with full-width curb-to-curb improvements.
   d. Sidewalks, Pedestrian Path, Trails and Bikeways.
   e. ADA Ramps and accessible facilities.
   f. Local streets with partial-width improvements. [*e.g. streets with an AC or paved center travel lane, gravel/grass shoulders, with or without curbs.*]
   g. Gravel streets.

   No new street shall be accepted by the City for maintenance until such street is brought up to the standards required by this Title. "New Street" includes either (1) a street created as part of a land division or development approved per Title 17, or (2) a right-of-way granted to the City and intended for street use, or (3) a platted but unopened or unimproved street within the City. (Ord. 646, section 1 (part), 1988; prior code section 4.360) (Ord. 940, January 2012: prior code section 4.160)

12.04.260 MAINTENANCE OF CURBS, SIDEWALKS, STREET TREES AND LANDSCAPE STRIP BY PROPERTY OWNER

1. Each property owner is responsible for maintenance of the curb, sidewalk and landscape strip, including street trees, abutting the owner's property. The curb, sidewalk and landscape strip shall be kept clean and in good repair.

2. If any curb, sidewalk, street tree or landscape strip between the curb and the property line becomes unsafe, out of repair, and/or poses an unreasonable risk of danger to person or property, the Public Works Director will notify the affected property owner to repair,

maintain or clean the curb, sidewalk, street tree or landscape strip as conditions may require.

3. A sidewalk and/or curb shall be deemed to present an unreasonable risk of danger to person or property if:

   a. Panels or pieces are gap-separated more than one-half inch from adjacent panels or pieces; or,

   b. Panels or pieces are vertically displaced from each other more than one-quarter inch; or,

   c. Entire pieces or panels are absent; or,

   d. Panels or pieces are broken into parts smaller than one square foot; or,

   e. The grade from one piece or panel to the adjacent piece changes by more than one-half inch per foot in any direction; or,

   f. Handicap access ramps or driveways deviate from the slopes and dimensions included in the City's Standard Specifications; or,

   g Curb pieces exist less than two feet in length; or,

   h Monolithic curb and gutter sections are cracked or broken longitudinally, or displaced one-half inch or more from the adjacent paving; or,

   i. The surface irregularities are generally more than one-half inch from the original surface; or,

   j Trip hazards, obstructions or other conditions exist which prevent safe use of the sidewalk, handicap access ramp or curb; or,

   k. Any other damage deemed to present an unreasonable risk of danger to person or property as determined at the sole discretion of the Public Works Director.

4. The existence of sidewalks and/or curbs in such condition as to present an unreasonable risk of danger to persons or property hereby is declared to be a public nuisance and may be abated by the City as set forth in Section 12.04.270 of this Chapter.

5. Each property owner shall be liable for the full cost of the repair, maintenance or cleaning of any curb, sidewalk, street tree or landscape strip adjacent to or abutting the property.

6. When damage to a curb or sidewalk is attributed to a heritage tree as designated by the City according to SMC 17.20.970 Section 3, the repair to the curb and/or sidewalk shall be done in such a way as to not inflict damage to the tree. The property owner may approach the City for financial and/or design assistance when repair to curbs and sidewalks is necessary around heritage trees. (Ord. 798, May 1999) (Ord. 940, January 2012: prior code section 4.170)

12.04.270 MAINTENANCE OF CURBS AND SIDEWALKS: ABATEMENT PROCEDURES, NOTICES AND APPEALS

1. Notice to Property Owner. Whenever, in the judgment of the Public Works Director or designee, it is necessary that an existing sidewalk, curb, landscape strip, and trees be reconstructed or repaired, written notice will be mailed to the property owner. The notice shall include:

a. A description of the problem or violation and the reconstruction or repairs that are required; and,

b. A description of any interim safety measures, warning devices and/or barricades that are needed to protect the public until such time as the curb or sidewalk is reconstructed or repaired or the hazardous condition is removed; and,

c. A description of the location where the problem exists in sufficient detail to easily identify the location of the reconstruction or repair. The notice shall be sufficient if it specifies at least the street and address of the property; and,

d. A date when the reconstruction or repair must be completed, but not less than 30 days from the date of the written notice; and,

e. A statement that the property owner must obtain a right-of-way permit from the City prior to undertaking the reconstruction or repair; and,

f. A statement that the property owner may file a written appeal to the City Administrator within 14 days of the date of the notice; and

g. A statement that if the property owner fails to make such reconstruction or repair within the time limits in the notice, then the City may reconstruct or repair such curb, sidewalk, landscape strip and trees the City will bill the property owner for the actual costs for the reconstruction or repair, including inspection services, plus 10 percent to cover overhead and that if the bill is not paid, a lien may be placed on the property; and,

The notice may also include,

h. A statement that in lieu of the property owner obtaining a permit and making the required repair, the property owner may, in writing, authorize the City to make the repairs and bill the property owner for the actual costs of the work; and/or,

2. The property owner shall either:

a. Within 30 days from date of the notice, obtain a permit to undertake reconstruction or repair; or,

b. File an appeal with the City Administrator within fourteen (14) days of the date of the notice.

3. The property owner shall complete the reconstruction or repair described in the notice within the time period specified in the notice. The time period may be extended by the City considering limitation of weather and season, but not to exceed 120 days from the date of the notice.

4. If the property owner either:

a. Fails to file an appeal with the City in a timely manner, or

b. Fails to obtain a right-of-way permit, or

c. Fails to complete the repairs or reconstruction with the time specified by the notice, or

d. Fails to comply with the direction of the City following an appeal,

then the property owner shall be deemed to have waived his or her rights and the City may proceed to make repairs in accordance with Section 12.04.280 of this Chapter.

5. Appeals

a. Appeal to City Administrator. Any person who, by the notice prescribed in this Section, is directed to reconstruct or repair a curb and/or sidewalk may file a written appeal to the City Administrator within fourteen (14) days of the date the notice was mailed. The written appeal shall state one or more of the following grounds for the appeal:

i. That the alleged defect is not in violation of the standards adopted under this Chapter;

ii. That the alleged defect is not hazardous, in fact, because of special conditions in the particular case;

iii. That the compliance period is unreasonable;

iv. That an extension of the compliance period was unreasonably denied;

v. That safety measures specified in the notice are unreasonable; or

vi. That the person to whom notice has been given is not the owner of the property adjacent to the curb or sidewalk.

b. City Administrator's Decision on the Appeal. The City Administrator shall consider the appeal within 15 days from the date of the City's receipt of the appeal. The City Administrator may, at the City Administrator's sole discretion, (1) remand the issue back to the Public Works Director for reconsideration, (2) grant the request on appeal, with or without conditions or (3) deny the request on appeal. The City Administrator's decision may be appealed, in writing, to the City Council.

c. Appeal to City Council. The City Administrator's decision to approve or deny an appeal regarding the reconstruction or repair of a sidewalk or curb under Section 12.04.270 may be appealed by the Property Owner to the City Council within fourteen (14) days of the mailing of the Notice of Decision. The appeal shall be in writing and shall clearly state the issue being appealed and the grounds for the

appeal. The City Council shall consider the appeal at a regularly scheduled meeting, no later than 45 days from the date of the City's receipt of the appeal. The Mayor may invite testimony, at the Mayor's discretion. The City Council may, at its discretion, (1) remand the issue back to the City Administrator for reconsideration, (2) grant the request on appeal, with or without conditions or (3) deny the request on appeal based on the record. The City Council's decision is final. (Ord. 646, section 1 (part), 1988; prior code section 4.363) (Ord. 940, January 2012: prior code section 4.180)

12.04.280 MAINTENANCE BY CITY AND BILLING TO PROPERTY OWNER

1. If a property owner signs a written authorization granting the City permission to make required curb and sidewalk repairs and then bill the property owner and the City elects to make the repairs, the City will estimate the costs of the reconstruction or repair, notify the property owner of the estimated costs and obtain authorization to proceed.

2. Upon the refusal or neglect of any property owner to undertake necessary cleaning, reconstruction or repair after notice to do so by the City, the City may pursue appropriate legal remedies or the City may, if budgeted funds are available, proceed to clean, reconstruct or repair a curb, sidewalk, street tree and/or landscape strip.

3. Any expenses incurred for reconstruction or repair by the City in accordance with Subsections 1 or 2 of this Section shall be billed to the affected property owner. The billed expense may include the actual costs for the reconstruction or repair, including inspection services, plus 10 percent to cover overhead

4. If the billed expense is not paid in full within thirty (30) days of the mailing date, the City may make monthly, quarterly or other payment arrangements with the property owner.

5. In addition to Section 4 above, if the billed expense is not paid within thirty (30) days after notice thereof is provided by mail to the affected property owner, the City may proceed to enter an assessment lien against the property, in the amount of the billed expense, plus any legal, bonding, interest and administrative costs, to be collected and enforced as other City liens. (Ord. 646, section 1 (part), 1988; prior code section 4.363) (Ord. 940, January 2012: prior code section 4.180)

12.04.290 LIABILITY OF PROPERTY OWNERS

1. The owners of property adjacent to or abutting any curb, sidewalk and/or landscape strip shall be liable for all personal or property damages which result from their fault or negligence in failing to keep any such curb, sidewalk, street tree and/or landscape strip in clean and in good repair.

2. The property owner shall be responsible to repair and correct defects in the curb, sidewalks, and/or landscape strip and shall be liable for any injuries/damages incurred by third parties as a result thereof, regardless of whether or not City has provided notice to property owner. (Ord. 646, section 1 (part), 1988; prior code section 4.365) (Ord. 940, January 2012: prior code section 4.190)

12.04.300 WORK ON EXISTING STREETS, SIDEWALKS AND CURBS

1. Nothing in this Chapter shall be construed to require that curb lines be altered on streets where such curb lines have been permanently improved at the expense of the adjacent or abutting property, unless by special order from the Public Works Director.

2. On any side of any street on which concrete sidewalks already exist, the pattern established by the location of existing sidewalks in relation to the curb and the owner's property line shall determine the location for all sidewalks on that side of the street, notwithstanding the provisions of this Chapter or the City's Standard Specifications.

3. No deviation from an established sidewalk pattern shall be made without approval of the Public Works Director. (Ord. 646, section 1 (part), 1988; prior code section 4.380) (Ord. 940, January 2012: prior code section 4.200)

12.04.310 ACCEPTANCE OF STREETS AND SIDEWALKS

Upon completion of any street improvement or street repair, or any portion thereof, and prior to acceptance of the work, the Public Works Director shall determine that the new construction or street repair meets City's Standard Specifications, that the regulations have been met, and that all permit and inspection fees have been paid. The City will accept the work and the initiate the warranty period in accordance with the City's Standard Specifications.[2] (Ord. 646, section 1 (part), 1988; prior code section 4.380) (Ord. 940, January 2012: prior code section 4.210)

[2] See City of Stayton Public Works Construction Specifications, Section 1.02.10 to 1.02.12 and 1.08.21, for completion and warranty requirements.

12.04.320 TO 12.04.380 RESERVED FOR EXPANSION

12.04.390 VIOLATION: PENALTY

1. Any person who violates any provision of this Chapter is punishable upon conviction by a fine as provided in subsection 2 of this section. This penalty may be assessed against the property owner and/or permittee. Each day that the violation persists after notification shall be deemed as a separate offense.

2. A violation of this Chapter shall be punishable as an infraction by a fine not less than $500.00 or more than $1,000.00 for each infraction. (Ord. 646, section 1 (part), 1988; prior code section 4.995) (Ord. 940, January 2012: prior code section 4.290)

TITLE 12. STREETS, SIDEWALKS, AND PUBLIC PLACES

CHAPTER 12.08

STANDARD SPECIFICATIONS FOR PUBLIC WORKS CONSTRUCTION

SECTIONS

12.08.310 ADOPTED, CONFORMANCE REQUIRED, AMENDMENT

1. The City has adopted a certain set of documents entitled "City of Stayton Public Works Design Standards and City of Stayton Construction Specifications" as the public works design standards and construction specifications for public works improvements in the City.

2. All public works design and construction, including workmanship and materials, shall be in accordance with the current edition of the City of Stayton Public Works Design Standards and Construction Specifications. This section applies to all public improvements within the city limits of the City of Stayton, the Stayton Urban Growth Boundary or as otherwise required by law.

3. The Public Works Director will periodically update the City of Stayton Public Works Design Standards and Construction Specifications to reflect changes in policy, procedure, new technology, design methods and construction methods.

    a. Requests for modifications may be initiated either by the City or by an interested party.

    b. Requests for modifications will be considered in accordance with the review procedures set forth in the City of Stayton Design Standards and Construction Specifications.

    c. The Public Works Director is hereby granted authority to approve or deny requests for modifications to the City of Stayton Design Standards and Construction Specifications.

d. Updates to the City of Stayton Public Works Design Standards and Construction Specifications will be posted on the City's website. Copies may be purchased from the City.

e. The Public Works Director will provide the City Council with a report which lists the updates and modifications made to the City of Stayton Public Works Design Standards and Construction Specifications when changes are made.

12.08.320 TO 12.08.380 RESERVED FOR EXPANSION

12.08.390 VIOLATION: PENALTY

Violation of any regulation promulgated by authority of this chapter is punishable by a fine not to exceed five hundred dollars ($500.00).

TITLE 12. STREETS, SIDEWALKS, AND PUBLIC PLACES

CHAPTER 12.12

PUBLIC IMPROVEMENTS

SECTIONS

12.12.410 INITIATION

A public improvement may be initiated:

1. By motion of the council; or

2. By petition of property owners representing fifty percent (50%) or more of the property to be assessed for the improvement. (Ord. 681, January 1991)

12.12.420 PROJECT REPORT

When an improvement is initiated, the public works department shall prepare a project report for all the owners of property to be assessed. The report will be distributed by mail or by personal contact by a representative from the city. The report will provide the property owners with information related to the proposed improvements. The report shall inform owners of:

1. A description of the proposed improvement;

2. A preliminary project cost estimate and an estimated cost for the owners of each property to be assessed;

3. The date and time of an informational hearing on the proposed improvement if one is to be held;

4. Such other information as is deemed desirable or necessary. (Ord. 681, January 1991)

12.12.430 INFORMATIONAL HEARINGS

1. The city council may, by motion, direct that an informational hearing for the benefit in property owners be held on the proposed improvements project. The council may elect to hold the hearing or may direct the city administrator to hold the hearing. At the informational hearing, the public works director or his designate shall present a report on the project, including:

   a. A map or plat showing the general nature, location, and extent of the proposed improvement and the land to be assessed for the payment of any part of the cost thereof;

   b. Preliminary estimates of the work to be done; provided, however, that when the proposed project is to be carried out in cooperation with any other governmental agency, the report may adopt the plans, specifications, and estimates of such agency;

   c. An estimate of the probable cost of the improvement, including any legal, administrative, and engineering costs attributable to it;

   d. A recommendation as to the method of assessment to be used to arrive at a fair apportionment of the whole or any portion of the cost of the improvement to the properties specially benefited;

e. The description and assessed value of lot, each parcel of land, or portion to be benefited by the improvement, with the names of the record owners thereof and, when readily available, the names of the contract purchasers thereof;

f. A statement of outstanding assessments against the property to be assessed.

2. The property owners to be assessed will be given an opportunity to raise questions and/or to provide the city with information related to the project.

3. Either at the informational hearing, or prior to or after, the city may seek, either orally or in writing, comments from the property owners to determine if they are in favor of or opposed to the proposed improvements.

4. At the conclusion of the hearing, the public works director will submit the original or a modified report to the city administrator, who will then forward it to the city council for consideration. (Ord. 681, January 1991)

12.12.440 ACTION BY COUNCIL

At the conclusion of the informational hearing or at a subsequent meeting of the city council, the council will consider the report and determine if there is reason to proceed with the improvement project. The council may either approve the report, modify the report, or abandon the project. (Ord. 681, January 1991)

12.12.450 ISSUANCE OF GENERAL OBLIGATION WARRANTS

When issuance of general obligation warrants for the project is contemplated by the city, the following conditions must be satisfied:

1. There must be a legal opinion from the city's bond counsel finding a public purpose in the project; and

2. The estimated total assessment for the project must not equal or exceed one and one-half times the total assessed valuation of the benefited properties, as shown by the last county tax roll. (Ord. 681, January 1991)

12.12.460 RESOLUTION AND NOTICE OF HEARING

If the council approves the report as submitted, the council shall by resolution declare its intention to make the improvement and direct the city administrator to give notice of the improvement by publication in a newspaper of general circulation within the city and by sending copies of such notice by mail to the owners, or the owner's agent, of property to be assessed for the costs of the improvement. The notice shall contain the following:

1. That a written report on the improvement is on file in the office of the city administrator and is subject to public examination;

2. That the council will hold a public hearing on the proposed improvement on a specified date, which shall not be earlier than ten (10) days following the publication of notice, at which objections and remonstrances to such improvements will be heard by the council; and that if, prior to such hearing, there are presented to the city administrator valid written remonstrances on forms provided by the city of the owners of two-thirds of the property to be assessed for the improvement, then the improvement will be abandoned or suspended for at least six (6) months; and that reinitiation of the project after the council abandons or suspends the project will require council action or submission of another petition for improvements pursuant to 12.12.410 of this chapter.

3. A description of the property to be benefited by the improvement, the estimated total cost of the improvement to be paid for by assessments to benefited properties, an estimate of the unit cost of the improvement of the property to be assessed, and a statement that financing will be available at not more than two percent (2%) above the prime lending rate established at the completion of the project;

4. When the improvement is a sidewalk, the council may, in accordance with Chapter 12.04.100 of this title, order the owners of the lots adjacent to the proposed sidewalk to construct the sidewalk, at their expense, under the supervision of the engineer, and conforming to certain plans and specifications, and that upon failure to do so, the city will cause the sidewalk to be constructed and a lien will be placed against the property adjacent to the site of such sidewalk for the cost thereof. (Ord. 681, January 1991)

12.12.470 METHOD OF CONSTRUCTION WORK

1. The council may provide in the improvement resolution that the construction work may be done in whole or in part by the city, by a contract, by any other governmental agency, or by any combination thereof.

2. When the improvement involves construction or reconstruction of a sidewalk, the council may provide in the improvement resolution that the improvement work may be done by the owner and at his/her expense, pursuant to the procedure set forth in this title. (Ord. 681, January 1991)

12.12.480 HEARING PROCEDURE

At the time of the public hearing on the proposed improvement, if the written remonstrances represent less than the amount of property required to defeat the proposed improvement, then on the basis of the hearing or written remonstrances and oral objections, if any, the council may by motion, at the time of the hearing or within sixty (60) days thereafter:

1. Adopt, correct, modify, or revise the proposed assessments;

2. Order the improvement to be carried out in accordance with the resolution; or

3. Abandon the improvement. (Ord. 681, January 1991)

12.12.490 CALL FOR BIDS

The council may direct the administrator to advertise for bids for construction of all or any part of the improvement project on the basis of the council-approved report and before the passage of the resolution, or after the passage of the resolution and before the public hearing on the proposed improvement, or at any time after the public hearing; provided, however, that no contract shall be let until after the public hearing has been held to hear remonstrances and oral objection to the proposed improvement. In the event that any part of the work of the improvement is to be done under contract bids, then the council shall determine the time and manner of advertisement for bids, and the contracts may be let to the responsible bidder whose bid is in the best interests of the city, as determined by the sole discretion of the council, provided that the council shall have the right to reject any or all bids when they are deemed unreasonable or unsatisfactory in the council's discretion. The city shall provide for the bonding of all contractors for the faithful performance of any contract let under this authority, and the provisions thereof in case of default shall be enforced by action in the name of the city. (Ord. 681, January 1991)

12.12.500 NOTICE OF PROPOSED ASSESSMENT

1. If the council determines that the local improvement shall be made, when the cost is ascertained on the basis of the city engineer's estimate, or the contract award, or the city departmental cost, or after the work is done and the cost thereof has been actually determined, the council shall determine whether the property benefited shall bear all or a portion of the cost. "Cost" includes the direct administrative overhead costs incurred by the city pertaining to the improvement project.

2. The administrator or person designated by the council shall prepare the proposed assessment to the respective lots within the assessment district and file it in the appropriate city office. The administrator shall present the proposed assessment to the city council for comment prior to mailing notice of the proposed assessment.

3. Notice of the proposed assessment shall be mailed or personally delivered to the owner or the owner's agent of each lot proposed to be assessed. The notice shall state the amounts of assessments proposed on that property and shall fix a date by which time objections shall be filed with the administrator.

4. Any objection shall state the grounds thereof. Owners of benefited property filing objections are entitled to a hearing before the public and may be heard upon request to the city administrator. (Ord. 681, January 1991)

12.12.510 DETERMINATION OF ASSESSMENT

The council shall consider any objections and may adopt, correct, modify, or revise the proposed assessments and shall determine the amount of assessments to be charged against each lot within the district, according to the special and peculiar benefits accruing thereto from the improvements and shall by ordinance spread the assessments. (Ord. 681, January 1991)

12.12.520 METHOD OF ASSESSMENT: ALTERNATIVE FINANCING METHODS

1. The council, in adopting a method of assessment of the costs of the improvement, may:

   a. Use any just and reasonable method of determining the extent of any improvement district consistent with the benefits derived;

   b. Use any method of apportioning the sum to be assessed as is just and reasonable among the properties determined to be specially benefited;

   c. Authorize payment by the city of all or any part of the cost of any such improvement when, in the opinion of the council, the topographical or physical conditions or unusual or excessive public travel or other character of the work involved, warrants only a partial payment or no payment by the benefited property of the costs of the improvement.

2. Nothing contained in this chapter shall preclude the council from using any other available means of financing improvements, including federal or state grants-in-aid, other charges or fees, revenue bonds, general obligation bonds, or any other legal means of finance. If such other means of financing improvements are used, the council may, in its discretion, levy special assessments according to the benefits derived to cover any remaining part of the costs of the improvement. (Ord. 681, January 1991)

12.12.530 NOTICE OF ASSESSMENT

Within ten (10) days after the ordinance levying assessment has been passed, the administrator shall mail a notice of assessment to the owner or the owner's agent of the assessed property. The notice of assessment shall recite the date of the assessment ordinance and shall state that, upon the failure of the owner of the property assessed to make application to pay the assessment in installments within thirty (30) days from the date of the assessment ordinance, or upon the failure of the owner to pay the assessment in full within thirty (30) days from the date of the assessment ordinance, interest will commence to run on the assessment and the property assessed will be subject to foreclosure. The notice shall also describe the property assessed, name the owner of the property, and state the amount of each assessment. (Ord. 681, January 1991)

12.12.540 ENTERING OF LIEN, RECORDS, INTEREST

1. After passage of the assessment ordinance by the council, the city finance officer shall enter in the docket of city liens a statement of the amounts assessed upon each particular lot, parcel of land or portion thereof, together with a description of the improvement, the name of the owners, and the date of the assessment ordinance. Upon such entry in the lien docket, the amount so entered shall become a lien and charge upon the respective lots, parcels of land or portions thereof which have been assessed for such improvements.

2. All assessment liens of the city shall be superior and prior to all other liens or encumbrances on property insofar as the laws of the state permit.

3. Interest shall be charged at the rate set by the council up to a maximum allowed by law until paid on all amounts not paid within thirty (30) days from the date of the assessment ordinance. (Ord. 681, January 1991)

12.12.550 FORECLOSURE PROCEEDINGS

After expiration of thirty (30) days from the date of the assessment ordinance, the city may proceed to foreclose or enforce collection of the assessment liens in the manner provided by the general law of the state; provided, however, that the city may, at its option, enter a bid for the property being offered at a foreclosure sale, which bid shall be prior to all bids except those made by persons who would be entitled under the laws of the state to redeem such property. (Ord. 681, January 1991)

12.12.560 ERRORS IN ASSESSMENT CALCULATION

Claimed errors in the calculation of assessments shall be called to the attention of the administrator, who shall determine whether there has been an error in fact. Upon finding an error in fact, the administrator shall recommend to the council an amendment to the assessment ordinance. Following enactment of the amendment, the administrator shall make the necessary correction in the docket of city liens and send a correct notice of assessment to the owner. (Ord. 681, January 1991)

12.12.570 DEFICIT ASSESSMENTS

1. If an assessment is made before the total cost of the improvement is ascertained, and if it is found that the amount of the assessment is insufficient to defray the expenses of the improvement, the council may by motion declare such deficit and prepare a proposed deficit assessment.

2. The council shall set a time for a hearing of objection to such deficit assessment and shall direct the administrator to give notice according to the provisions in Section 12.12.560 of this chapter. After the hearing, the council shall make a just and equitable deficit assessment by ordinance, which shall be entered in the docket of city liens as provided by Section 12.12.540 of this chapter. (Ord. 681, January 1991)

12.12.580 REBATES

If, upon the completion of the improvement project, it is found that the assessment previously levied upon any property is more than sufficient to pay the costs of such improvements, then the council must ascertain and declare the same by ordinance. In the event that any assessment has been paid, the person who paid the assessment or his/her legal representative shall be entitled to the repayment of the rebate credit or the portion thereof which exceeds the amount unpaid on the original assessment. (Ord. 681, January 1991)

12.12.590 ABANDONMENT OF PROCEEDINGS

The council shall have full power and authority to abandon and rescind proceedings for improvements made pursuant to this chapter at any time prior to the final completion of such improvements. If liens have been

assessed upon any property under these procedures, they shall be canceled and any payments made on such assessments shall be refunded to the person paying them, his/her assigns, or legal representative. (Ord. 681, January 1991)

12.12.600 ERROR NOT TO INVALIDATE ASSESSMENT

1. No improvement assessment shall be rendered invalid by reason of:

   a. Failure of the report to contain all of the information required by Section 12.12.540 of this chapter;

   b. Failure to have all of the information required to be in the improvement resolution, the assessment ordinance, the lien docket, or notices required to be published and mailed;

   c. Failure to list the name of or to mail notices to the owner of any property as required by this chapter;

   d. Any other error, mistake, delay, omission, irregularity, or other act, jurisdictional or otherwise, in any of the proceedings or steps herein specified, unless it appears that the assessment is unfair or unjust in its effect upon the person complaining.

2. The council shall have the power and authority to remedy and correct all such matters by suitable action and proceedings. (Ord. 681, January 1991)

12.12.610 REASSESSMENT

Whenever any assessment, deficit, or reassessment for any improvement which has been made by the city is set aside, annulled, declared, or rendered void, or its enforcement is restrained by any court of this state, or any federal court having jurisdiction thereof, or when the council is in doubt as the validity of such assessment, deficit assessment, or reassessment or any part thereof, the council may make a reassessment in the manner provided by the laws of the state. (Ord. 681, January 1991)

TITLE 13.

MASTER UTILITIES PLAN

CHAPTERS

TITLE 13. MASTER UTILITIES PLAN

CHAPTER 13.04

GENERAL PROVISIONS

SECTIONS

13.04.010 DEFINITIONS

For the purposes of this code, terms, phrases, words, abbreviations, and their derivatives shall be construed as specified herein. When not inconsistent with the context, words used in the present tense include the future; words in the plural number include the singular number; and words in the singular number include the plural number. The word “shall” is always mandatory and not merely directory

CAPITAL IMPROVEMENTS ADVISORY COMMITTEE: The "capital improvements advisory committee" is an advisory committee consisting of nine (9) members authorized to review, evaluate, and prioritize pending public facility projects and to make recommendations to the City Council regarding the capital improvements program which implements the master utilities plan.

CAPITAL IMPROVEMENTS PROGRAM: The "capital improvements program" is a phased implementation program based on the master utilities plan. Timing provisions for the public utilities are prioritized by a five-year phased program which is updated on a yearly basis and are consistent with the comprehensive plan's projected growth estimates. Planned revenues and expenditures are also projected over the five-year phased program. The capital improvements program includes the master utilities fee schedule.

CONNECTION CHARGE: A "connection charge" is cost borne by the user to provide a utility connection at the property line.

DEVELOPER: A "developer" is deemed to be the individual, firm, corporation, partnership, association, syndication, trust, or other legal entity that is responsible for the development of land, thereby creating a demand on the public utility systems.

DEVELOPMENT: "Development" is any improvement which places a demand on the public utility systems or other public facility.

DWELLING UNIT: A "dwelling unit" is one or more rooms in a dwelling or portion of a dwelling designed for occupancy by one family for living purposes and having its own cooking and sanitary facilities.

ENGINEERED CONSTRUCTION PLANS: "Engineered construction plans" means drawings and specifications of proposed public utility systems to be developed bearing the stamp of a professional engineer.

EXCAVATION: Any opening in the surface of a public place made in any manner whatsoever; including an opening into a lawful structure below the surface of a public place, the top of which is flush with the adjoining surface and so constructed as to permit frequent openings without injury or damage to the public place.

FACILITY: Pipe, pipeline, tube, main, service trap, vent, vault, manhole, meter, gauge, regulator, valve, conduit, wire, tower, pole, pole line, anchor, cable, junction box, transformer, or any other material, structure, or object of any kind or character, whether enumerated herein or not, which is or may be lawfully constructed, left, placed, or maintained in, upon, along, across, under, or over any public place.

MASTER UTILITIES FEE SCHEDULE: The capital improvements advisory committee may annually review and recommend to the City Council a comprehensive schedule of fees and charges in connection with the funding of the capital improvement program. The fees and charges shall include, but not be limited to:

a. Systems development fee;
b. User fees;
c. Connection fees (water);
d. Connection fees (sewer);
e. Permit charges

MASTER UTILITIES PLAN: The "master utilities plan," a support document to the comprehensive plan for the City, describes water, sanitary sewer, and storm sewer (exclusive of the Mill Creek Flood Basin) utilities which are to support the land uses designated within the urban growth boundary by the comprehensive plan as required by OAR 660-11-0045. The master utilities plan contains the following items:

a. An inventory and general assessment of the condition of all the significant public utility systems which support the land uses designated in the comprehensive plan;

b. A list of the significant public utility projects which are to support the land uses designated by the comprehensive plan. Public utility project descriptions or specifications of these projects as necessary;

c. Rough cost estimates of each public utility project;

d. A map or written description of each public utility project's general location or service area;

e. Policy statements regarding the urban growth management and identifying the City as the provider of the public utility system;

f. An estimate of when each utility project will be needed. (Amended Ord 920, May 3, 2010)

MASTER UTILITIES FINANCE PLAN: The City is the provider of the public utility systems identified in the master utilities plan and the "master utilities finance plan" is the funding mechanism for the City to fund the development of each public utility project. The funding mechanisms include:

a. Systems development fees;
b. User fees;
c. Other means of funding.

PAYMENT SCHEDULE AGREEMENT: A "payment schedule agreement" is a written agreement between the developer and the City outlining the amount to be paid and the terms of the payment.

PERSON: Any person, firm, partnership, association, corporation, company, or organization of any kind.

PERMITTEE: Any person, firm, partnership, association, corporation, company, or organization of any kind on whose behalf a right-of-way construction permit is obtained.

PUBLIC FACILITY: Any facility which is immediately or is eventually to be taken over by the City for maintenance and operation. Facilities include, but are not limited to public utilities, streets, sidewalks, curbs, parking lots, driveways, public buildings, and properties.

PUBLIC PLACE: Any public street, street right-of-way, place, alley, sidewalk, park, square, plaza, or any other public property owned or controlled by the City.

PUBLIC UTILITY SYSTEMS: For the purpose of this chapter, "public utility systems" include and are limited to the following:

a. Water
   i. Sources of water
   ii. Treatment of water
   iii. Storage system
   iv. Pumping system
   v. Primary distribution system

b. Sanitary Sewer
   i. Treatment facilities system
   ii. Primary collection system

c. Storm Sewer
   i. Primary collection system
   ii. Mayor drainage ways (streams, ditches, pump stations, and retention basins).
   iii. Outfall locations.

PUBLIC WORKS DIRECTOR: That person assigned the title of Public Works Director or any person the assigned director designates.

PUBLIC WORKS PROJECT REPORT: A "public works project report" is a study and written report by the director of public works for a specified utility project. The report will include the following:

a. A map or plat showing the general nature, location, and extent of the proposed improvement and the land to be assessed for the payment of any part of the cost thereof;

b. Plans, specifications, and estimates of the work to be done; provided, however, that when the proposed project is to be carried out in cooperation with any other governmental agency, the report may adopt the plans, specifications, and estimates of such agency;

c. An estimate of the probable cost of the improvement including any legal, administrative, and engineering costs attributable to it;

d. A recommendation as to the method of assessment, if any, to be used to arrive at a fair apportionment of the whole or any portion of the cost of the improvement to the properties specially benefited;

e. The description and assessed value of each lot, parcel of land, or portion to be specially benefited by the improvement, with the names of the record owners thereof and, when readily available, the names of the contract purchasers thereof;

f. A statement of outstanding assessments against the property to be assessed.

REQUEST FOR PUBLIC UTILITIES: A "request for public utilities" is an application for water and/or sewer service by a developer. The application form provided by the City shall indicate the date of application, location of premises to be served, the size of service desired, the date service is to be used, the address for mailing utility bills, and such other information as the City may reasonably require.

RIGHT-OF-WAY CONSTRUCTION PERMIT: A "right-of-way construction permit" is a document giving authority to construct, alter, modify, or connect to any public utility system, approved by the director of public works.

SERVICE: A "service" is a branch or lateral from the main to which the user is allowed to connect.

STANDARD SPECIFICATIONS: Uniform design, material, and workmanship standards under which all public works facilities shall be constructed in the City. “Public works facilities” include public utility systems which are constructed to be immediately or eventually operated and maintained by the City.

SYSTEMS DEVELOPMENT FEE: A "systems development fee" is levied at the time engineered construction plans are approved. Such fee, as collected, is placed in a special fund designated as the systems development fund. The fund will assist in financing the installation and construction of increased capacity in public facilities.

USER FEE: A "user fee" is the periodic fee charged to the customer for the use and benefit of the public utility system (Ord. 746, §2, June 1995).

13.04.020 PREPARATION

The director of public works shall prepare or have prepared a master utilities plan for all public facilities within the urban growth area. Such master utilities plan shall include the expansion, construction, or the reconstruction of the public utility systems. Master plans shall be updated as circumstances warrant. (Ord. 630, section 3[part], 1986: prior code section 5.002)

13.04.030 CAPITAL IMPROVEMENTS PROGRAM

The director of public works shall prepare or have prepared a capital improvements program which should generally specify the time period, projects, cost, and source of revenue for public utility and facility systems. These programs are for financial planning and will be guided by the capital improvements advisory committee at the discretion of the City Council. (Ord. 630, section 3[part], 1986: prior code section 5.003)

13.04.040 AUTHORITY TO ORDER, MODIFY, OR PROHIBIT DEVELOPMENT

The director of public works has the responsibility to order, modify, or prohibit development of public facilities subject to Council action whenever:

1. This code, the City charter, state, or federal law specifies;
2. The provisions of Title 16. of this code or other provisions of this code would place an undue burden on the existing systems or customers;
3. A threat to health and welfare would be created by following the standard procedure. (Ord. 630, section 3[part], 1986: prior code section 5.004)

13.04.050 SPECIAL AGREEMENTS: CONDITIONS

In certain instances where, in the judgment of the director of public works, it becomes advisable to (1) provide temporary service or service that is not in timing with the City's plans; (2) provide public utilities outside of the City limits or service area; (3) provide public utilities or services not specifically allowed by this code, the director of public works shall make a recommendation to the City Council and the Council may approve or reject special agreements (Ord. 630, section 3[part], 1986: prior code section 5.005)

13.04.060 PUBLIC WORKS PROJECT REPORT

Prior to construction of any public works project, the director shall submit to the City Council a public works project report. (Ord. 630, section 3[part], 1986: prior code 5.012)

13.04.070 NO OBLIGATION TO PROVIDE SERVICE

Neither the director of public works nor the City is under an obligation to extend public utilities or service. (Ord. 630, section 3[part], 1986: prior code section 5.006).

TITLE 13. MASTER UTILITIES PLAN

CHAPTER 13.08

CONSTRUCTION PROJECT REQUIREMENTS

SECTIONS

13.08.110 CONSTRUCTION PERMIT: REQUIRED

Any work involving construction, alteration, or connection to the public utilities or facilities of the City requires a right-of-way construction permit. (Ord. 630, section 3[part], 1986: prior code section 5.007)

13.08.120 CONSTRUCTION PERMIT: RESPONSIBILITY TO OBTAIN

It shall be the property owner who signs the right-of-way construction permit. He may designate in writing an engineer, bank, or person to act as agent. (Ord. 630, section 3[part], 1986: prior code section 5.008)

13.08.130 COMPLIANCE WITH STANDARD SPECIFICATIONS

Work done under a right-of-way construction permit must meet or exceed the requirements of the Standard Specifications for Public Works Construction in the City, or such other standards as required by the permit. The director of public works shall have the authority to alter or prescribe standards which necessary and which are consistent with established engineering practices. (Ord. 630, section 3[part], 1986: prior code 5.009)

13.08.140 INSPECTION: RESPONSIBILITY

It is the responsibility of the property owner to ensure that there is adequate inspection, testing, and documentation of the work prior to requesting acceptance by the department of public works. (Ord. 630, section 3[part], 1986: prior code section 5.010)

13.08.150 APPROVAL AND ACCEPTANCE OF WORK

Prior to acceptance of the work, the public works director shall determine that the new construction or street repair meets City of Stayton standard specifications, that the regulations have been met, and that all permit fees have been paid.

a. Acceptance by the City on a fully improved or resurfaced street project financed by the City shall be on the date of the check for final payment. A warranty period of not less than one year from the date of acceptance shall be provided. Warranty for all pavement, storm drainage, sanitary sewers, water mains, and services shall be provided by one of the following:

1. The director of public works shall determine that the work done under the right-of-way permit is such that the warranty period shall be provided by one of the methods listed below:

i. **Surety Bond** executed by a surety company authorized to transact business in the state of Oregon in a form approved by the City attorney.

ii. **Personal Bond** co-signed by at least one additional person together with evidence of financial responsibility and resources of those signing the bond sufficient to provide reasonable assurance of ability to perform any work necessary in accordance with the warranty.

iii. **Cash**

b. Acceptance by the City of all other right-of-way construction shall be in written form. A warranty period of not less than one year, beginning the date of the City's letter of acceptance, shall be provided (Ord. 746, §11, June 1995).

CHAPTER 13.12

SYSTEM DEVELOPMENT CHARGES

SECTIONS

13.12.205 DEFINITIONS

The following words and phrases, as used in this Chapter, have the following definitions and meanings:

1. **CAPITAL IMPROVEMENT(S)**: Public facilities or assets used for any of the following:
   a. Water supply, treatment, and distribution;
   b. Sanitary sewers, including collection, transmission, and treatment;
   c. Storm sewers, including drainage and flood control;
   d. Transportation, including but not limited to streets, sidewalks, bike lanes and paths, street lights, traffic signs and signals, street trees, public transportation, vehicle parking, and bridges; or
   e. Parks and recreation, including but not limited to mini-neighborhood parks, neighborhood parks, community parks, public open spaces and trail systems, buildings, courts, fields, and other like facilities.
2. **DEVELOPMENT**: Constructing or enlarging a building or adding facilities or making a physical change in the use of a structure or land which increases the usage of any capital improvements or which will contribute to the need for additional or enlarged capital improvements.
3. **PUBLIC IMPROVEMENT CHARGE**: A fee for costs associated with capital improvements to be constructed after adoption of a system development charge methodology. “Public improvement charge” shall have the same meaning as the term “improvement fee” as defined in ORS 223.299(2).
4. **QUALIFIED PUBLIC IMPROVEMENTS**: A capital improvement that is required as a condition of development approval and is identified in the plan adopted pursuant to Section 13.12.230.2and either:

(a) Not located on or contiguous to property that is the subject of development approval (as used in this definition, "contiguous" means in a public way which abuts); or

(b) Located in whole or in part on or contiguous to property that is the subject of development approval and required to be built larger or with greater capacity than is necessary for the particular development project to which the improvement fee is related.

5. **REIMBURSEMENT FEE**: A fee for costs associated with capital improvements constructed or under construction on the date the fee is adopted pursuant to Section 13.12.220.

6. **SYSTEM DEVELOPMENT CHARGE**: A reimbursement fee, a public improvement charge, or a combination thereof, assessed or collected at any of the times specified in Section 13.12.235. It shall not include connection or hook-up fees for sanitary sewers, storm drains, or water lines, since such fees are designed by the City only to reimburse the City for the costs for such connections. Nor shall the system development charge include costs for capital improvements which by City policy and state statute are paid for by assessments or fees in lieu of assessments for projects of special benefit to a property.

13.12.210 PURPOSE

The purpose of the system development charge is to impose an equitable share of the public costs of capital improvements upon those developments that create the need for or increase the demands on the facility system(s) to which those capital improvements are made.

13.12.215 SCOPE

The system development charge imposed by this Chapter is separate from and in addition to any applicable tax, assessment, charge, fee in lieu of assessment, or fee otherwise provided by law or imposed as a condition of development. A systems development charge is to be considered in the nature of a charge for services rendered or facilities made available, or a charge for future services to be rendered or facilities to be made available in the future.

13.12.220 SYSTEM DEVELOPMENT CHARGE ESTABLISHED

1. Unless otherwise exempted by the provisions of this Chapter or other provisions of this Code or by state law, system development charges are hereby imposed upon all development within the City, and all development outside the boundary of the City that connects to or otherwise uses the sanitary sewer system, storm drainage system, water system, street system, or parks system of the City. The City Administrator is authorized to make interpretations of this Section, subject to appeal to the City Council.

2. System development charges for each type of capital improvement may be created through application of the methodologies described in Section 13.12.225.

13.12.225 METHODOLOGY

1. The methodology used to establish a reimbursement fee shall consider the cost of then-existing facilities, prior constructions by then-existing users, the value of unused capacity, rate-making principles employed to finance publicly-owned capital improvements, and other relevant factors. The methodology shall promote the objective that

future systems users shall contribute an equitable share of the cost of then-existing facilities that provide benefit to the future systems users.

2. The methodology used to establish the public improvement charge shall consider the cost of projected capital improvements needed to increase the capacity of the systems to which the fee is related to accommodate projected future growth and shall provide for a credit against the public improvement charge for the construction of any qualified public improvement, as outlined in Section 13.12.245.

3. [repealed]

4. Except when authorized in the methodology adopted under Section 13.12.225.1, the fees required by this Code which are assessed or collected as part of a local improvement district or a charge in lieu of a local improvement district assessment, or the cost of complying with requirements or conditions imposed by a land use decision are separate from and in addition to the system development charge and shall not be used as a credit against such charge.

5. The methodologies used to establish the system development charges shall be adopted by resolution of the City Council. The specific system development charges may be adopted and amended concurrent with the establishment or revision of the system development charge methodology. The City Administrator shall review the methodologies established under this Section every three (3) years and shall recommend amendments, if and as needed, to the City Council for its action.

6. The formulas and calculations used to compute specific system development charges are based upon averages and typical conditions. Whenever the impacts of individual developments present special or unique situations such that the calculated fee is grossly disproportionate to the actual impact of the development, alternative fee calculations may be approved or required by the City Administrator. All data submitted to support alternate calculations under this provision shall be site specific. Major or unique developments may require special analyses to determine alternatives to the standard methodology.

7. Any appeal of the methodology for an alternative fee calculation approved by the City Administrator shall be filed with the City Council. When an appeal is filed challenging an adopted methodology for an alternative fee calculation the City Administrator shall prepare a written report and recommendation within twenty (20) working days of receipt of the appeal for presentation to the City Council at a regular meeting. The City Council shall, by resolution, approve, modify, or reject the report and recommendation of the City Administrator, or it may adopt a revised methodology by resolution, if required. Any legal action contesting the City Council's decision in the appeal shall be filed within sixty (60) days of the Council's decision.

13.12.230 COMPLIANCE WITH STATE LAW

1. The revenues received from the system development charges shall be budgeted and expended as provided by state law. Such revenues and expenditures shall be accounted for as required by state law. Their reporting shall be included in the City's annual financial report required by ORS Chapter 294.

2. The capital improvement plans required by state law as the basis for expending the public improvement charge components of system development charges revenues shall be

   a. The Transportation System Plan

   b. The Water Master Plan

   c. The Wastewater Master Plan

   d. The Stormwater Master Plan; and

   e. The Parks and Recreation Master Plan

   and amendments or updates enacted by the City Council.

13.12.235 COLLECTION OF CHARGE

1. System development charges are payable upon, and as a condition of, issuance of:

   a. A building or plumbing permit for a development;

   b. A permit for a development not requiring the issuance of a building permit; or

   c. A permit or other authorization to connect to the water or sanitary sewer systems.

   The system development charges shall be based upon the fee schedule in effect at the time the permit is issued.

2. If development is commenced or connection is made to the water system or the sanitary sewer system without an appropriate permit, the system development charge is immediately payable upon the earliest date that a permit was required, and it will be unlawful for anyone to continue with the construction or use constituting a development until the charge has been paid or payment secured to the satisfaction of the City Administrator.

3. Any and all persons causing a development or making application for the needed permit, or otherwise responsible for the development, are jointly and severally obligated to pay the charge, and the City Administrator may collect the charge from any of them. The City Administrator shall not issue any permit or allow connections described in Section 13.12.235.1 until the charge has been paid in full or until an adequately secured arrangement for its payment has been made, within the limits prescribed by a resolution to be adopted by the City Council.

4. A system development charge shall be paid in cash when due, or in lieu thereof the City Administrator may accept the delivery of a written agreement to pay if the written agreement is secured by collateral satisfactory to the City Administrator. The collateral may consist of mortgage or trust deeds of real property, or an agreement secured by surety bond issued by a corporation licensed by a state law to give such undertakings, or by cash deposit, letter of credit, or other like security acceptable to the City Administrator.

5. A person may apply to pay the system development charge in installments.

13.12.240 EXEMPTION

Any development for which a water or sewer system development charge was paid prior to the date of the adoption of this Chapter is exempt from all of the system development charges imposed in Section 13.12.220.

13.12.245 CREDITS

1. When development occurs that gives rise to a system development charge under Section 13.12.220, the system development charge for the existing use shall be calculated and if it is less than the system development charge for the proposed use, the difference between the system development charge for the existing use and the system development charge for the proposed use shall be the system development charge required under Section 13.12.220. If the change in use results in the system development charge for the proposed use being less than the system development charge for the existing use, no system development charge shall be required; however, no refund or credit shall be given.

2. Limitations on Credits.

   a. The limitations on the use of credits contained in this Section shall not apply when credits are otherwise given under Section 13.12.250.

   b. A credit against the improvement fee portion of the system development charge shall be given for the cost of a qualified public improvement associated with a development.

   c. The credit provided for in this Section shall be only for the improvement fee charged for the type of improvement being constructed, and credit for qualified public improvements may be granted only for the cost of that portion of such improvement that exceeds the City's minimum standard facility size or capacity needed to serve the particular development project or property. The applicant shall have the burden of demonstrating that a particular improvement qualifies for credit.

   d. The request for credit for a qualified public improvement shall be filed with the City Administrator, not later than 60 days after approval of the development by the City. The request shall include:

      1. A legal description of all land within the development;

      2. A legal description of any land proposed to be donated as part of the qualified public improvement;

      3. A written appraisal of the fair market value of donated lands which are a part of the qualified public improvement. The appraisal shall be prepared by a certified professional appraiser and based upon comparable sales of similar property between unrelated parties;

      4. A detailed written estimate of proposed construction costs for each qualified public improvement, prepared by a professional engineer. The estimate shall include separate costs for that portion of each improvement that exceeds the city's minimum standard facility size or capacity;

5. The signatures of all legal owners of the development property together with the designation of who is to receive any credits and the designated percentage for each, if more than one person or entity is designated.

e. If a qualified public improvement is located partially on and partially off the parcel of land that is the subject of the approval, the credit shall be given only for the cost of the portion of the improvement not attributable wholly to the development. The credit provided for by this Section shall be only for the public improvement charge charged for the type of improvement being constructed and shall not exceed the public improvement charge even if the cost of the capital improvement exceeds the applicable public improvement charge.

f. When the construction of a qualified public improvement gives rise to a credit amount greater than the improvement fee that would otherwise be levied against the project receiving development approval, the excess credit may be applied against improvement fees that accrue in subsequent phases of the original development project in accordance with Section 13.12.245.4.

3. Applying the methodology adopted by resolution, the City Administrator shall grant a credit against the public improvement charge, the reimbursement fee, or both, for a capital improvement constructed as part of the development that reduces the development's demand upon existing capital improvements or the need for future capital improvements or that would otherwise have to be provided at City expense under then-existing City Council policies.

4. In situations where the amount of credit exceeds the amount of the system development charge, the excess credit is not transferable to another development. However, the applicant and the City may enter into a written agreement for the credit to be provided to subsequent phases of the development or for the applicant to be reimbursed for portions of the credit due to the applicant from system development charges paid by other applicants for subsequent phases of the development. The terms of such an agreement shall not provide for future reimbursements more than ten (10) years after the construction of the qualified public improvement.

5. Credit shall not be transferable from one type of capital improvement to another.

13.12.250 APPEAL PROCEDURES

1. As used in this Section, "working day" means a day when the general offices of the City are open to transact business with the public.

2. A person aggrieved by a decision required or permitted to be made by the City Administrator under Sections 13.12.205 through 13.12.245 or a person challenging the propriety of an expenditure of system development charge revenues may appeal the decision or expenditure by filing a written request with the City Administrator for consideration by the City Council. Such appeal shall describe with particularity the decision or the expenditure from which the person appeals and shall comply with subsection 4 of this Section.

3. An appeal of an expenditure must be filed within two (2) years of the date of alleged improper expenditure. Appeals of any other decision must be filed within ten (10) working days of the date of the decision.

4. The appeal shall state:

   a. The name and address of the appellant;

   b. The nature of the determination being appealed;

   c. The reason the determination is incorrect; and

   d. What the correct determination should be.

   An appellant who fails to file such a statement within the time permitted waives his/her objections and his/her appeal shall be dismissed.

5. Unless the appellant and the City agree to a longer period, an appeal shall be heard within thirty (30) days of the receipt of the written appeal. At least ten (10) working days prior to the hearing, the City Recorder shall mail notice of the time and location thereof to the appellant.

6. The City Council shall hear and determine the appeal on the basis of the appellant's written statement and any additional evidence the appellant deems appropriate. At the hearing, the appellant may present testimony and oral argument personally or by counsel. The City may present written or oral testimony at this same hearing. The rules of evidence as used by courts of law do not apply.

7. The appellant shall carry the burden of proving that the determination being appealed is incorrect and what the correct determination should be.

8. The City Council shall render its decision within fifteen (15) days after the hearing date and the decision of the City Council shall be final. The decision shall be in writing, but written findings shall not be made or required unless the City Council in its discretion elects to make findings for precedential purposes. Any legal action contesting the City Council's decision on the appeal shall be filed within sixty (60) days of the City Council's decision.

13.12.255 PROHIBITED CONNECTION

After the effective date of this Chapter, no person may connect any premises for service, or cause the same to be connected, to any sanitary sewer or water system of the City unless the appropriate system development charge has been paid or payment has been secured as provided in this Chapter.

13.12.260 ENFORCEMENT

Any service connected to the City water or sewer system after the effective date of this Chapter for which the fee due hereunder has not been paid as required or an adequate secured arrangement for its payment has been made is subject to termination of service under the City's utility disconnect policy.

TITLE 13. MASTER UTILITIES PLAN

CHAPTER 13.16

WATER SERVICE

SECTIONS

13.16.300 PURPOSE

1. The purpose of this Chapter is to authorize charges, rates and fees for the use of the City water system, to regulate the use of City water, to provide a process for voluntary and involuntary discontinuance of service, to avoid those connections to the system which may be detrimental to the public and to provide for collection of charges.

2. The City finds that the operation and maintenance of the City water system and a portion of the costs of construction of the system should be funded through user charges imposed against those persons and activities using or receiving service from that system.

3. The City finds the charges, rates and fees are not subject to the property tax limitations of Section ll(b), Article XI, of the Oregon Constitution;

4. It is the policy of the City to provide clean, healthful, and plentiful water to its residents. There may be circumstances beyond the City's control, however, including most particularly weather conditions and the effects of natural catastrophe or the actions of others on the City's water supply sources, that make it necessary to reduce the water regularly used by the City's residents and apportion among the City's residents a restricted supply of water. In those circumstances, the City intends that water be apportioned in a manner that is determined by the City Council to be equitable under the circumstances, and takes into account public health and safety.

5. Definitions: For purposes of this Chapter,

   Finance Director. The Finance Director of the City of Stayton or designee.

   Public Works Director. The Public Works Director of the City of Stayton or designee.

13.16.310 APPLICATION

1. Each applicant for water service shall complete an application form for utility service provided by the City. The application is a written request for utility service and does not bind the City to serve.

2. Any changes in the above-mentioned service shall require a new application for utility service. (Ord. 630, section 3[part], 1986: prior code section 5.023)

3. If an applicant for utility service has unpaid charges at another service address in the City, the City may refuse to provide service until either the unpaid charges are paid in full or the City authorizes the transfer of the unpaid balance to the applicant's new utility service account.

13.16.320 SERVICE SPECIFICATIONS GENERALLY

The City shall furnish and install water service consistent with the Public Works Design Standards and Public Works Standard Construction Specifications of the City. (Ord. 630, section 3[part], 1986: prior code section 5.027)

13.16.330 LOCATION OF WATER MAINS

All water mains, service connections, and water meters shall hereafter be laid on dedicated streets, public property, or on property on which the City has an easement to construct and maintain water lines. (prior code section 5.170).

13.16.340 LOCATION OF WATER SERVICE LINES AND WATER METERS

1. Where the water main is in the public right-of-way the water service line and meter will be located within the public right-of-way.

2. Where the water main is in a public utility easement or publicly owned property other than a designated right-of-way, the water service line and water meter shall be installed to the boundary of the easement or public property, provided that the length of service does not exceed sixty (60) feet.

3. If the length of the service line to the meter location exceeds sixty (60) feet the applicant shall pay the extra cost of the water service line on the basis of actual cost to the City. (Ord. 630, section 3[part], 1986: prior code section 5.028)

13.16.350 OWNERSHIP, INSTALLATION, AND MAINTENANCE

1. The City shall own and maintain the water service line from the water main up to and including the water meter, where the water service line and meter are located in the public right-of-way or a public utility easement.

2. The customer shall own, install and maintain the private service line from the water meter to the building and/or into the development.

3. If the water service line and water meter are located on private property, and are not located within a public utility easement, then the customer shall own, install and maintain the water service lines located on private property; but the City shall own, install and maintain the water meter. (Ord. 630, section 3[part], 1986: prior code section 5.024)

13.16.370 CONNECTION CHARGES

At the time of application for the installation of a water service line and/or water meter, the applicant shall pay a water connection fee to cover the City's costs. Charges for the installation of water service lines and water meters shall be set by separate resolution. (Ord. 630, section 3[part], 1986: prior code section 5.025).

13.16.380 FIRE PROTECTION SERVICE

Fire protection facilities may be allowed inside and/or outside a building. When a building has a fire protection service which is separate from the regular service to the building, an approved proportional meter or detector check shall be used in place of a service meter. The owner of the building shall agree in writing that water supplied through this service will not be used for any purpose except for extinguishing fire. If use is recorded on a proportioned meter or detector check, the installation of a service meter or the removal of the fire service may be required at the expense of the property owner. (Ord. 630, section 3[part], 1986: prior code section 5.029)

13.16.390 WATER METERS: USE REQUIRED

1. Except as provided in Subsection 2. of this Section, each single-family dwelling, each dwelling unit in a two-family dwelling, each dwelling unit in a three-family dwelling, and each non-residential establishment shall have a separate water service line and water meter, provided that if special circumstances of construction render metering of such individual service impractical the Public Works Director may waive such requirements.

2. Each structure containing more than three (3) residential dwelling units or three (3) non-residential establishments will be served with a single meter for the entire building or by a separate water service line and meter for each unit. Each meter shall be located in the public right-of-way or in a public utility easement in accordance with sections 13.16.330 and 13.16.340 of this Chapter. (Prior code section 5.115)

13.16.400 UNAUTHORIZED SUPPLY OF WATER

1. No water customer shall supply water to any building, concern, person, family, or place other than the premises or persons specified in the application for service, except on written consent of the Public Works Director. The consent shall designate the person, family, or building to be supplied and the purpose of the use.

2. In case of violation of this section, the customer shall be charged double the usual consumption charge for the amount of water used. If violations continue after notice by the City, water service to the premises may be turned off until the violation is corrected and all charges are paid in full. (prior code section 5.147)

13.16.410 FIXTURES AND EQUIPMENT, MAINTENANCE, WASTE OF WATER PROHIBITED

1. Each customer, at his own expense, shall maintain all faucets, taps, hoses, lines, and other equipment through which water flows from the City system in good condition and free from leakage.

2. Waste or excessive use of water is prohibited.

3. When a leak, excessive use or waste of water is discovered by the City, the customer shall be notified. Water leaks shall be repaired and excessive use of water or waste of water shall be stopped upon notice from the City. Water service may be turned off to any premises where the City determines there is a leak,

excessive use or waste of water until repairs are made. (prior code section 5.150)

13.16.420 INTERRUPTION OF SERVICE

1. The City does not guarantee continuous, even, and uninterrupted water service to any customer, nor shall the City be liable for any loss or damage resulting from the operation or interruption of the water service, directly or indirectly.

2. The City has the right to impose such temporary nondiscriminatory restriction, water rationing, or limitations on the use of water when it deems necessary or in the event of an emergency.

3. The City will make a reasonable effort to notify all customers of any anticipated interruption or any restrictions on water use, except in case of an emergency. (prior code section 5.145)

13.16.430 DISCONTINUANCE OF SERVICE

1. Every customer who is about to vacate any premises to which water service is supplied by the City shall give seventy-two hours notice in advance of the intended date of discontinuance of service. The customer shall be held responsible for all services rendered to such premises until such notice is received and service discontinued. (prior code section 5.155)

2. If water service is discontinued for any reason, all past due bills, fees and service charges must be paid in full by the property owner or other responsible party before water service is restored and/or service is provided to a new customer.

13.16.440 WATER RATES, METERED SERVICE

1. Water rates are comprised of the four (4) items as described:

   a. Base Rate.

   b. Meter Equivalent Charge per meter per month: Compound meters shall be charged only in the largest meter in the compound at each service. On-site fire service shall be billed as per meter size. If unmetered, the charges shall be by line size as stipulated in the Fire Line Schedule. Services used for irrigation only shall be billed similarly to fire services.

   c. Fire Standby Charge: A fire standby charge shall be levied on each occupancy served by City water. In occupancies that are served by more than one water service, the charge shall be levied only on one service.

   d. Commodity Charge.

2. Water rates, utility deposits and fees shall be established by separate resolution and will be effective on the date specified in the resolution. (Ord. 805, Sept. 7, 1999)

13.16.450 NON-RESIDENTIAL UTILITY DEPOSITS: WHEN REQUIRED

1. A utility deposit for water and sewer service shall be required of all persons requesting utility service at any non-residential premises.(Ord. 774, October 22, 1997)

2. The utility deposit shall bear no interest (Ord. 732, 9, October 1994).

3. Persons making the deposit will be advised of or given a copy of the City of Stayton billing policy at the time the deposit is made. (Ord. 774, October 22, 1997).

4. The amount of the utility deposit shall be set by separate resolution.

13.16.460 NON-RESIDENTIAL UTILITY DEPOSITS: REFUNDS

1. Upon discontinuance of service to any customer, the City will refund the customer's deposit or the balance, if any, in excess of the unpaid bills owning for utility service furnished by the City.

2. The utility deposit shall be refunded to the customer after twenty-four (24) months if all utility bills have been paid within ten (10) days of the due date, and if service has not been discontinued for non-payment during the prior twelve (12) month period. (Ord. 774, October 22, 1997)

3. A new utility deposit may be waived when any customer moves from one location in the City to another location in the City if, within the prior twenty-four (24) months, the customer has paid all utility bills to the City within ten (10) days of the due date and service has not been discontinued for non-payment.(Ord. 774, October 22, 1997).

13.16.470 NON-RESIDENTIAL UTILITY BILLS: RESPONSIBLE PARTY

1. Where more than a single building, building unit, occupant or business is serviced by a single water meter, the bill for utilities shall be sent to the property owner of record, or a responsible person/property manager authorized by the owner of the premises.

2. The property owner of record shall be responsible for the payment of all charges prescribed in this ordinance. If the property is rented and the renter fail to pay the charges, the City shall present the bill to the property owner for payment. (Ord. 774, October 22, 1997).

3. All water and sewer charges shall be a lien against the premises served from and after the date of billing and entry in the City lien docket. The lien docket shall be made accessible for inspection by anyone interested in ascertaining the amount of the charges against the property. When a bill for water or sewer service remains unpaid thirty (30) days after it has been rendered, the lien thereby created may be foreclosed in any manner provided by law, this code, or city ordinance. (Ord. 662, section 1[part], 1990: prior code section 5.138)

13.16.480 NON-RESIDENTIAL UTILITY BILLS: WHEN DUE

All accounts for water and sewer service are due and payable on the tenth day of each calendar month for the previous month's use. (Ord. 662, section 1[part], 1990: prior code section 5.140)(Ord. 774, October 22, 1997)

13.16.490 NON-RESIDENTIAL COMMERCIAL/INDUSTRIAL UTILITY BILLS: DELINQUENT ACCOUNTS(Ord. 774, October 22, 1997)

1. Utility bills become delinquent if not paid within ten (10) days after it becomes due, as specified in Section 13.16.480 of this Chapter. (Ord. 774, October 22, 1997).

2. Notices of delinquent accounts will be mailed to the customer/occupant and property owners on the first working day after delinquency occurs advising of the delinquency and the proposed shut-off date.(Ord. 774, October 22, 1997)

3. The City may shut off water for any customer whose account has become delinquent or who has not paid the utility deposit in accordance with procedures set out in Section 13.16.450 of this Chapter for such time as the default of payment may continue. (Ord. 662, section 1[part], 1990: prior code section 5.141)

4. A final delinquent notice will be attached to the door at the service address for which payment has not been made, not less than fourteen (14) days after delinquency as defined in 13.16.560.1. The notice will inform the customer that the utility bill must be paid within a minimum of 24 hours or the water service will be shut off after the date and time specified on the final notice. (Ord. 774, October 22, 1997).

5. Processing Fees for Repeat Delinquent Accounts

   a. An account is considered a delinquent account if it has fallen delinquent. (Ord.819, December 4, 2000).

   b. The City may assess a processing fee for delinquent accounts in addition to other penalties provided for in this Chapter. (Ord.819, December 4, 2000).

   c. The processing fee may be waived by the Finance Director of the City if an agreement for payment, satisfactory to the City, can be reached and is performed.

   d. Arrangements for payment may be made with the concurrence of the Finance Director under unique or unusual circumstances. The Finance Director's decision may be appealed, in writing, to the City Administrator. The City Administrator shall review the appeal and either reverse, modify or uphold the Finance Director's decision. The City Administrator's decision shall be final. A limit of four (4) occurrences per year of unusual circumstances may be claimed by any utility customer.

   e. The Finance Director may increase, to double the average monthly billing of the past year, the amount of the utility deposit if payments have been delinquent more than three times in the past year. (Ord. 774, October 22, 1997).

13.16.500 NON-RESIDENTIAL UTILITY BILLS: PROCEDURE FOR SHUTTING OFF WATER

Whenever water is shut off to any premises for non-payment of a utility bill, the following procedure shall apply:

1. Prior to shutting off water service an agent of the City shall advise the occupant of the premises that the water service is to be discontinued unless the delinquent amounts are paid within twenty-four (24) hours. The agent shall leave a notice on the door advising the occupant that water service is to be discontinued in twenty-four (24) hours if the full amount of the delinquent bill and fees are not paid.(Ord. 774, October 22, 1997).

2. If full payment of the delinquent amount and fees is not made to the City within the 24-hour period, the agent shall immediately turn off the service, without necessity of further notice to the occupant.(Ord. 774, October 22, 1997).

3. The City shall charge a customer a shut-off fee, or the actual cost of labor and materials, whichever is greater, for notification and restoration of the water service. (Ord. 662, section 1[part], 1990: prior code section 5.142)(Ord. 774, October 22, 1997).

13.16.510 NON-RESIDENTIAL SERVICE CHARGE (Ord. 774, October 22, 1997)

1. CUSTOMER REQUESTED TEMPORARY TURN-OFF OF SERVICE: The City shall charge a service charge for each time the water service is turned-off at the meter. (Ord. 774, October 22, 1997)

2. RESTORATION OR TURN-ON OF SERVICE: The City shall charge a service charge for each time the water service is turned on at the meter.

3. ADDITIONAL CHARGES: In addition to the turn-off or turn-on charge listed in subsections (1) and (2) of this section, the City shall charge a customer the actual cost of labor and materials plus 10% administrative services in the event the City removes or reinstalls a water meter and/or service connections due to an owner request or tampering with city-owned water services (Ord. 732, §10, October 1994).(Ord.

774, October 22, 1997)

13.16.520 RESIDENTIAL UTILITY DEPOSITS, WHEN REQUIRED (Ord. 774, October 22, 1997).

1. A utility deposit for water and sewer service, shall be required of all persons requesting utility service at any premises. (Ord. 774, October 22, 1997).

2. The utility deposit shall bear no interest. (Ord. 774, October 22, 1997).

3. Persons making the deposit will be advised of or given a copy of the City of Stayton billing policy at the time the deposit is made. (Ord. 774, October 22, 1997).

4. The amount of the utility deposit shall be set by separate resolution.

13.16.530 RESIDENTIAL UTILITY DEPOSITS: REFUNDS (Ord. 774, October 22, 1997)

1. Upon the discontinuance of service to any customer, the City will refund the customer's deposit or the balance, if any, in excess of the unpaid bills owing for utility service furnished by the City. (Ord. 774, October 22, 1997).

2. If a customer is the owner/occupant of the premises being serviced, the utility deposit shall be fully refunded to the customer after twenty four (24) months if all utility bills have been paid within ten (10) days of the due date, and if service has not been discontinued for non-payment during the prior twelve (12) month period. (Ord. 774, October 22, 1997)

3. If a customer is a tenant, lessee, agent, or other person responsible for payment of the utility bill service, but is not the owner/occupant, the utility deposit shall be refunded only upon discontinuance of service as described in Section 1. above. (Ord. 774, October 22, 1997).

4. If a customer is an owner/occupant, a new utility deposit may be waived when the customer moves from one location in the City to another location or requests service at a new location in the City if, within the prior twelve (12) months, the customer has paid all utility bills to the City within ten (10) days of the due date and service has not been discontinued for non-payment. (Ord. 774, October 22, 1997).

13.16.540 RESIDENTIAL UTILITY BILLS: RESPONSIBLE PARTY (Ord. 774, October 22, 1997)

1. Where more than a single dwelling unit is serviced by a single water meter, the bills for utilities shall be sent to the owner of the premises regardless of whether the premises is occupied by the owner or by a renter, lessee, or other tenant occupant.

2. The property owner of record shall be responsible for the payment of all billings prescribed in this Chapter. If the property is rented and the renter fails to pay the charges, the City shall submit the bill to the property owner for payment. The property owner is responsible for all delinquent billings, but is not responsible for any penalties assessed for delinquency by a renter, lessee or tenant.

3. All water and sewer charges shall be a lien against the premises served from and after the date of billing and entry in the City lien docket. The lien docket shall be made accessible for inspection by anyone interested in ascertaining the amount of the charges against the property. When a utility bill remains unpaid thirty (30) days after it has been rendered, the lien thereby created may be foreclosed in any manner provided by law, this code or city ordinance.

13.16.550 RESIDENTIAL UTILITY BILLS: WHEN DUE (Ord. 774, October 22, 1997)

All accounts for water and sewer service are due and payable on the tenth day of each calendar month for all the previous months use.

13.16.560 RESIDENTIAL UTILITY BILLS: DELINQUENT ACCOUNTS (Ord. 774, October 22, 1997)

1. Utility bills become delinquent if not paid within ten (10) days after they become due as specified in Section 13.16.550 of this Chapter.

2. Notices of delinquent accounts will be mailed to the customer/occupant and property owners on the first working day after delinquency occurs advising of the delinquency and the proposed shut-off date.

3. The City may take whatever steps it deems appropriate, including discontinuance of service, at any property, regardless of whether the property is owner-occupied or is occupied by a renter, lessee, or other party, if a utility deposit has not been paid and/or the account has become delinquent, as defined in subsection 13.16.560 (1) of this Chapter, for such time as the default of payment may continue.

4. A final delinquent notice will be attached to the door at the service address for which payment has not been made fourteen (14) days after delinquency as defined in 13.16.560.1. The notice will inform the customer that the utility bill must be paid within a minimum of 24 hours or the water service will be shut off after the date and time specified on the final notice.

5. Processing Fees for Repeat Delinquent Accounts

    a. An account is considered a delinquent account if it has fallen delinquent. (Ord. No. 819, December 4, 2000).

    b. The City may assess a processing fee for delinquent accounts in addition to other penalties provided for in this Chapter. (Ord. No. 819, December 4, 2000).

    c. The processing fee may be waived by the Finance Director of the City if an agreement for payment, satisfactory to the City, can be reached and is performed.

    d. Arrangements for payment may be made with the concurrence of the Finance Director under unique or unusual circumstances. The Finance Director's decision may be appealed, in writing, to the City Administrator. The City Administrator shall review the appeal and either reverse, modify or uphold the Finance Director's decision. The City Administrator's decision shall be final. A limit of four (4) occurrences per year of unusual circumstances may be claimed by any utility customer.

    e. The finance director may increase to double the average monthly billing of the past year to access the amount of the utility deposit if payments have been delinquent more than three times in the past year.

13.16.570 RESIDENTIAL UTILITY BILLS: PROCEDURE FOR SHUTTING OFF WATER (Ord. 774, October 29, 1997).

Whenever the City must take action to discontinue service to any premises for non-payment of a utility bill, the following procedure shall apply:

1. Prior to shutting off water service, an agent of the City shall advise the occupant of the premises that the water service is to be discontinued unless the delinquent amounts are paid within twenty-four (24) hours. The agent shall leave a notice on the door advising the occupant that water service is to be discontinued in twenty-four (24) hours if the full amount of the delinquent bill, including service charges and fees, are not paid.

2. If full payment is not made to the City within the 24-hour period, the agent shall immediately turn off the service, without necessity of further notice to the occupant.

3. The City shall charge a customer or owner a fee established by resolution, or the actual cost of labor and materials, whichever is greater, for notification, turn-off and restoration of the water service.

13.16.580 RESIDENTIAL UTILITIES: SERVICE CHARGE (Ord. 774, October 22, 1997)

1. CUSTOMER REQUESTED TEMPORARY TURN-OFF OF WATER SERVICE: The City shall charge a service charge for each time the water service is turned off at the meter.

2. RESTORATION OR TURN-ON OF WATER SERVICE: The City shall charge a service charge for each time the water service is turned on at the meter.

3. ADDITIONAL CHARGES: In addition to the turn-off or turn-on charge referred to in subsections (1) and (2) of this Section, the City shall charge a customer the actual cost of labor and materials plus 10 percent of the actual costs for labor and materials for administrative services in the event the City removes or reinstalls a water meter and/or service connections due to tampering with city-owned water services by the owner and/or the customer.

NEW SECTIONS

13.16.590 UTILITY CHARGE ADJUSTMENTS AND PAYMENT AGREEMENTS

1. Errors in billing or collection shall be corrected in a timely manner by the City. Resulting credits on accounts or refunds shall be made as expeditiously as possible. Disputed billings or other collection transactions shall be dealt with as set forth in this Section.

2. The Finance Director may request the Public Works Department check meter readings or test the water meter to verify or validate a customer's water consumption and/or determine whether or not there is a leak on the customer's side of the water meter.

3. Authority is granted to the Finance Director to waive fees, make adjustments to utility charges and to implement payment agreements. Adjustments to utility charges may be made based upon a written request from the customer and for good cause. Good cause may include but is not limited to correction of user or account information, failure of the City to send a bill, demonstrated failure of a user to receive a bill, meter reading errors and adjustments to the time in which requester became the user. Waivers may include returned check charges, fees, disconnection charges or water/sewer utility charges.

4. Leak Adjustments. The Finance Director may adjust a bill if the City verifies or agrees a leak or break in the customer's system was the reason for excessive water consumption. If a leak is found and repaired, the customer shall submit a written request for adjustment of the account, together with an itemized receipt for repairs (or other satisfactory evidence of repair) within thirty (30) days of such repair. The customer shall be required to pay the outstanding balance on the account for all consumption. Upon verification of a leak, the Finance Director may approve a credit to the account for one-half the applicable consumption

rate for consumption amounts which exceed the normal consumption amount for a period of up to six months. The monthly base rate, meter equivalent charge and fire line charge shall not be adjusted under this subsection. The leak credit will be applied to the account within 90 days of approval.

5. Payment Agreements. The City may enter into a payment agreement with a customer to facilitate the payment of delinquent utility charges. Such agreements shall not exceed the term of three years, current charges must be paid when due, and the agreement must be signed by both parties and must be a legally binding agreement. Breach of such an agreement by the customer shall result in further collection efforts. Payment agreements for amounts over $10,000 must be approved by the City Council.

13.16.600 CUSTOMER APPEAL PROCESS

1. Customers shall have the right to appeal utility billing decisions. If a customer is not satisfied with a decision by the utility billing staff, the customer may appeal the staff decision to the Finance Director. The customer's appeal must be in writing. The appeal must explain the decision being appealed, the requested remedy and justification for the customer's position.

2. Within fourteen (14) days the Finance Director shall consider the appeal and issue a written decision either upholding the staff decision, modifying the decision or granting the appeal. The Finance Director's decision may be appealed in writing to the City Administrator within ten days.

3. Within fourteen (14) days the City Administrator shall consider the appeal and issue a written decision. The City Administrator's decision may be appealed within fourteen days of the decision to the City Council.

4. The Council will consider the appeal at a regularly scheduled meeting. The City Council's decision is final.

13.16.610 ENFORCEMENT OF PROVISIONS

1. In the event of violation of any provision in this Chapter, the City may use any enforcement method or measure, including discontinuance of service or property lien, it deems appropriate, in addition to any penalties provided for in this code. (Ord. 774, October 22, 1997)

13.16.620 VIOLATION: PROHIBITED ACTIVITIES (Ord. 774, October 22, 1997)

1. It is unlawful for any person to open, cut into, or make any connection with any City water main or lines, or to tamper in any way with the public water system, including water mains, fire hydrants, valves, service lines, meters and appurtenances without the express permission of the City.

2. It is unlawful for any person to open any shutoff valve or other device so as to permit water to flow from the City mains or lines into any private main or line without the express permission of the City.

3. It is unlawful for any person to use water for a City fire hydrant for construction purposes or any other purpose without express permission of the City, which may make provisions for metering such use, set charges, or refuse such permission.

13.16.630 VIOLATION: PENALTIES

1. Except as otherwise set out specifically in this code, any person violating any of the provisions or failing to comply with the requirements of this Chapter is guilty of a violation.

2. Except as otherwise provided in this Chapter, any person convicted of a violation of this Chapter shall be punished by a fine of not more than two hundred fifty dollars ($250.00).

3. If any person has been convicted of a violation of this Chapter, at any time within two (2) years of such conviction, that person commits a second or subsequent violation, the person may be prosecuted as a misdemeanor, punishable by a fine of not more than one thousand dollars ($1,000.00).

4. The remedies provided in this section are cumulative and not exclusive. In addition to the penalties provided above and those specifically set out in particular sections of this code, the City, by and through its authorized personnel, may pursue any remedy provided by law including the institution of injunction, mandamus, abatement, or other appropriate proceeding to prevent, temporarily or permanently enjoin, or abate a code violation.

13.16.640 VIOLATION: EACH ACT A SEPARATE VIOLATION

Each day a violation continues constitutes a separate offense, and any person convicted of such offense shall be punished accordingly.

TITLE 13. MASTER UTILITIES PLAN

CHAPTER 13.20

CITY WATER SYSTEM
CONTROL OF CROSS CONNECTIONS

SECTIONS

13.20.610 DEFINITIONS

1. AIR GAP SEPARATION: The physical vertical separation between the free-flowing discharge end of a potable water supply pipeline and the open or non-pressure receiving vessel.

2. AUXILIARY SUPPLY: Any water source or system other than the City of Stayton Water System.

3. APPROVED BACKFLOW PREVENTION ASSEMBLY: An assembly to prevent cross-connections due to backpressure and back-siphonage. The assemblies must appear on the list of approved assemblies issued by the Oregon Health Authority.

4. BACKFLOW OR BACK SIPHONAGE: The flow of water or other liquids, mixtures, or substances into the distribution system of a potable water supply from any sources other than its intended source.

5. CROSS CONNECTION: Any actual or potential unprotected connection or structural arrangement between the public potable water system and any other source or system through which it is possible to introduce into any part of the potable system any used water, industrial fluid, gas, or substances other than the intended potable water with which the system is supplied.

6. DOUBLE CHECK VALVE ASSEMBLY: An assembly of two independently acting check valves with shut-off valves on each side of the check valves and test cocks for checking the water tightness of each check valve.

7. HEALTH HAZARD: An actual or potential threat of contamination of a physical, chemical, or biological nature to the public potable water system.

8. NON-HEALTH HAZARD: An actual or potential cross connection that could allow a substance that may be objectionable, but not hazardous to one's health, to backflow into the potable water system.

9. PUBLIC WORKS DIRECTOR: The City of Stayton Public Works Director or designee.

10. PURVEYOR: The City of Stayton Public Works Department.

11. REDUCED PRESSURE PRINCIPLE BACKFLOW PREVENTION ASSEMBLY (R.P. Assembly): Assembly for preventing backflow which has two check valves, a differential relief valve located between the two check valves, two shut-off valves, one on the upstream side and the other on the downstream side of the check valves, and four test cocks for checking the water tightness of the check valves and the operation of the relief valve.

12. THERMAL EXPANSION: The pressure created by the expansion of heated water. Thermal expansion will cause water to backflow into the potable water system.

13.20.620 CROSS-CONNECTIONS PROHIBITED

The installation or maintenance of a cross-connection which may endanger the water quality of the potable water supply system of the purveyor is unlawful and is prohibited. Any such cross-connection now existing or hereafter installed is hereby declared to be a public hazard and the same shall be abated. The control or elimination of cross-connections shall be in accordance with this Chapter and in compliance with OAR Chapter 333, the Oregon Administrative Rules for Public Drinking Water Systems.

The Public Works Director will have the authority to establish requirements more stringent than State regulations if it is deemed necessary or the conditions so dictate. The purveyor will adopt rules and regulations as necessary to carry out the provisions of this Chapter. The Public Works Director is hereby authorized to enforce the provisions of this Chapter in the inspection of existing, new, and remodeled buildings. (Ord. 666, section 2, 1990)

13.20.630 USE OF BACKFLOW PREVENTION ASSEMBLIES

1. A water service connection will not be installed or maintained by the purveyor unless the water supply is protected as required by applicable provisions of state law and this Chapter. Water service to any premises will be discontinued by the purveyor if a backflow prevention assembly required by state law and/or this Chapter is not installed, tested, and maintained, or if it is found that a backflow prevention assembly has been removed or by-passed, or if an unprotected cross-connection exists on the premises. Water service will not be restored until such conditions or defects are corrected.

2. The premise owner's water piping system shall be open for inspection and testing at all reasonable times by authorized representatives of the purveyor to determine whether cross-connections, or other violations of these regulations, exist. When such a condition becomes known, the Public Works Director may deny or immediately discontinue service to the premises by providing for a physical break in the service line until the customer has corrected the condition(s) in conformance with the state statutes, administrative rules and City code relating to plumbing and water supplies and the regulations adopted pursuant thereto.

3. Backflow prevention assemblies may be required under circumstances including, but not limited to, the following:

    a. Premises having an auxiliary water supply;

    b. Premises having cross-connections that are not correctable or intricate plumbing arrangements which make it impractical to ascertain whether or not cross-connections exist;

    c. Premises where entry is restricted so that inspections for cross-connections cannot be made with sufficient frequency or at sufficiently short notice to assure that cross-connections do not exist.

    d. Premises having a history of cross-connections being established or re-established;

    e. Premises on which any deleterious substance is handled in a manner that may permit entry of same into the public water supply, or where a cross-connection could reasonably be expected to occur. This will include the handling of process waters and cooling waters;

    f. Premises where materials of a toxic or hazardous nature are handled in such a way that if a backflow incident should occur, a health hazard might result;

g. The following types of facilities may fall into one of the above categories where a backflow prevention assembly is required to protect the public water supply. A backflow prevention assembly shall be installed at these facilities unless the purveyor determines that no hazard exists. [*See OAR Chapter 333 of the Oregon Administrative Rules*].

- o Hospitals, mortuaries, clinics
- o Laboratories
- o Metal plating industries
- o Piers and docks
- o Sewage treatment plants
- o Food or beverage processing plants
- o Chemical plants using a water process
- o Petroleum processing or storage plants
- o Radioactive material processing plants or nuclear reactors
- o Others specified by the purveyor
- o Underground irrigation systems

4. The type of protective assembly required will depend on the degree of hazard which exists:

   a. An air-gap separation or a reduced-pressure-principle backflow prevention assembly shall be installed where the public water supply may be contaminated by a physical, chemical, biological, or radiological substance or matter that creates a health hazard.

   b. A double check valve assembly or a reduced-pressure-principle backflow prevention assembly shall be installed where the public water supply may be impaired to a degree which does not create a health hazard but which does adversely affect the aesthetic qualities of the water.

5. Backflow prevention assemblies required by this Chapter shall be installed in accordance with OAR Chapter 333 and the Oregon Plumbing Specialty Code.

6. Backflow prevention assemblies required by this Chapter shall be assemblies approved by the Oregon Health Authority.

7. Provision and installation of backflow prevention assemblies, where required, will be the responsibility of the property owner.

8. It shall be the responsibility of the property owner at any premises where backflow prevention assemblies are installed to have certified inspections and operational tests made at least once per year. In those instances where the Public Works Director deems the hazard to be great enough the City may require

certified inspections at more frequent intervals. These inspections and tests shall be at the expense of the property owner and shall be performed by a certified tester approved by the Oregon Health Authority. It shall be the duty of the Public Works Director to see that these tests are completed in a timely manner Backflow prevention assemblies shall be repaired, overhauled, or replaced at the expense of the property owner whenever said assemblies are found to be defective. Records of such tests, repairs, and overhaul shall be sent to the public works department.

9. Failure of the property owner to cooperate in the installation, maintenance, testing, or inspection of backflow prevention assemblies required by this Chapter or by state law shall be grounds for the termination of water service to the premises. (Ord. 666, section 3, 1990)

13.20.640 CROSS-CONNECTION INSPECTION

1. Inspections may be conducted on new and existing industrial, commercial, or other facilities which have been classified as hazardous and where it is reasonable to anticipate the potential for cross-connections as determined by the Public Works Director. Such inspections will be made by the purveyor or designee.

2. Inspections for the purpose of ascertaining whether cross-connections exist may be conducted at the discretion of the Public Works Director on all new and existing buildings, structures, or improvements of any nature that may receive or are now receiving water through the City's water system. Such inspections will be made by the purveyor or designee. (Ord. 666, section 4, 1990)

13.20.650 FEES

Fees authorized pursuant to this Chapter will be set by resolution. (Ord. 666, section 5, 1990; Ord.874, section 45, 2004)

13.20.660 INSTALLATION PERMITS

If cross-connection control assemblies are found to be necessary, the owner of the property served must apply to the local building authority for a permit for the specific installation. (Ord. 666, section 6, 1990).

13.20.670 LIABILITY

This Chapter shall not be construed to hold the City responsible for any damage to persons or property by reason of the inspection or testing herein, or the failure to inspect or test or by reason of approval of any cross-connection. (Ord. 666, section 7, 1990)

13.20.680 PENALTIES

Each violation of the provisions of this Chapter shall be punishable by a fine not to exceed $500.00. (Ord. 666, section 8, 1990; Ord. 874, section 46, 2004)

13.20.690 SEPARATE VIOLATIONS

Each day that a violation of this Chapter continues shall constitute a separate violation. (Ord. 666, section 9, 1990)

TITLE 13. MASTER UTILITIES PLAN

CHAPTER 13.24

SEWER SERVICE

SECTIONS

13.24.710 DEFINITIONS

For the purpose of this chapter, the following words and phrases shall be defined as follows, unless the context specifically indicates otherwise:

APARTMENTS: Means a structure designed for permanent or semi-permanent occupancy by individuals or families, each rental unit of which contains minimum kitchen, sleeping, and sanitary facilities.

APPROVING AUTHORITY: Means the City engineer or his duly authorized deputy, agent, or representative.

ASTM SPECIFICATIONS: Means the standard specifications or methods of the American Society for Testing Materials or the serial designation indicated by the number, and unless otherwise stated, the latest adopted revision of said specification or method.

BOD or **BIOCHEMICAL OXYGEN DEMAND:** Means the quantity of oxygen used in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty degrees (20^{o}) Celsius, expressed in milligrams per liter.

BUILDING DRAIN: Means that part or the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer beginning five feet (1.5 meters) outside the inner face of the building wall.

BUILDING SEWER: Means the extension from the building drain to the public sewer or other place of disposal.

BUSINESS USER: Means a single structure designed for a single business operation.

COMBINED SEWER: Means a sewer receiving both surface runoff and sewage.

CONNECTION CHARGE: Means the fee levied by the city to cover the cost of inspection and construction of the public sewer lateral to the property which is to be serviced, and for a portion of the construction cost of the lateral sewers and other administrative costs.

DEQ: Means the Department of Environmental Quality of the state.

GARBAGE: Means solid wastes from the domestic and commercial preparation, cooking, and dispensing of feed, and from handling, storage, and sale of produce.

HOTEL or **MOTEL:** Means a structure containing essentially single rental rooms for transient occupancy.

INDUSTRIAL USER: Means any person discharging industrial wastes.

INDUSTRIAL WASTES: Means the liquid wastes from any nongovernmental user of publicly owned treatment works identified in the Standard Industrial Classification Manual, 1972, Office of Management and Budget, as amended and supplemented, under Divisions A, B, D, E, and I. A user in the divisions listed may be excluded if it is determined that it will produce primarily domestic wastes.

MULTIPLE BUSINESS USER: Means one structure, housing several separate business enterprises and connected to a single water meter.

MULTIPLE DWELLINGS: Means single or multiple buildings designed and used for occupancy by two or more separate individuals or families.

NATURAL OUTLET: Means any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

pH: Means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

PROPERLY SHREDDED GARBAGE: Means the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers with no particle greater than 1.27 centimeters in any dimension.

PUBLIC SEWER: Means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority. It shall also include sewers within or outside the city boundaries that serve one or more persons and ultimately discharge into the city sanitary or combined sewer system, even though those sewers may not have been constructed with city funds.

RESIDENTIAL DWELLING: Means a single structure or building containing one or more rooms and intended to be occupied by one individual or one family doing its own cooking.

ROOMING AND/OR BOARDING HOUSE: Means a structure designed for permanent or semipermanent occupancy by individuals and/or families, each rental unit of which does not contain minimum kitchen and/or sanitary facilities.

SANITARY SEWER: Means a sewer which carries sewage and to which storm surface and groundwaters are not intentionally admitted.

SERVICE CONNECTION: Means a public sewer which has been constructed to the property line or right-of-way line from a public sewer lateral or main for the sole purpose of providing a connection for the building sewer.

SEWAGE: Means a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.

SEWAGE TREATMENT PLANT: Means any arrangement of devices and structures used for treating sewage.

SEWAGE WORKS: Means all facilities for collecting, pumping, treating, and disposing of sewage.

SEWER: Means a pipe or conduit for carrying sewage.

SLUDGE: Means any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more then five (5) times the average twenty-four hour concentration or flows during normal operations.

STORM DRAIN or **STORM SEWER:** Means a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes other than unpolluted cooling water.

SUPERINTENDENT: Means the city public works superintendent or his authorized deputy, agent, or representative.

SUSPENDED SOLIDS: Means solids that either float on the surface of or are in suspension in water, sewage, or other liquids and which are removable by laboratory filtering.

. **TRAILER COURT:** Means an area designed for the parking of house trailers and mobile homes on a temporary, rental basis.

WATERCOURSE: Means a channel in which a flow of water occurs, either continuously or intermittently. (prior code section 5.410)

13.24.720 APPLICATION

1. Each applicant for sewer service shall sign an application form provided by the city. The application is a written request for service and does not bind the city to serve.

2. Any changes in the above-mentioned service shall require a new request for public utilities. (Ord. 630, section 3[part], 1986: prior code section 5.030)

13.24.730 SERVICE SPECIFICATIONS GENERALLY

The city shall furnish and install sewer service consistent with the standard specifications of the city. (Ord. 630, section 3[part], 1986: prior code section 5.034) Sewer service shall be limited and shall consist of a single sewer service per lot unless approved in writing by the Director of Public Works or the Stayton City Council. (Ord. 802, August 18, 1999)

13.24.740 SEWER MAIN INSTALLATION

1. Where the new sewer main is in the public right-of-way, the standard service shall extend to the right-of-way line nearest the property to be served for the standard fee, provided that the length of service line does not exceed the width of the right-of-way.

2. Where the sewer main is on an easement or publicly owned property other than designated right-of-way, the services shall be installed to the boundary of the easement or public property by the city, provided that the length of service does not exceed thirty (30) feet. (Ord. 630, section 3[part], 1986: prior code section 5.035)

13.24.750 OWNERSHIP, INSTALLATION, AND MAINTENANCE

The city shall install and maintain for one year from the date of final inspection all sewer service connections. Maintenance after this date becomes the responsibility of the user. (Ord. 630, section 3[part], 1986: prior code section 5.031)

13.24.755 PERMITTED DISPOSAL: RECREATIONAL VEHICLE WASTE DISPOSAL SITES

Where permitted within the city or in any area under the jurisdiction of the city a revocable permit for commercial waste disposal sites for recreational vehicles may be issued by the city's public works director for the purpose of disposal of domestic waste in the city's sanitary sewer system. Permitted discharges shall be limited to untreated domestic waste drained directly from the vehicle's holding tank into the sanitary sewer. The director may issue the permit subject to necessary conditions and restrictions to ensure compliance with applicable regulations. Fees for commercial disposal may be established by ordinance or resolution. Disposal site operators shall be responsible for keeping daily discharge records in gallons per day (Ord. 732, §11, October 1994).

13.24.760 DISPOSAL OF WASTES RESTRICTED

1. It is unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the city or in any area under the jurisdiction of the City any human or animal excrement, garbage, or other objectionable waste.

2. It is unlawful to discharge to any natural outlet within the city or in any area under the jurisdiction of the city, any sewage or other polluted waters except where suitable treatment has been provided in accordance with subsequent provisions of this chapter. (prior code section 5.415)

13.24.770 USE OF PUBLIC SEWERS REQUIRED

1. Except as provided in this article, it is unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage within the City or in any area under the jurisdiction of the city.

2. The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes within the city and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the city, is required at his own expense to install suitable toilet facilities therein and to connect such facilities directly with the proper public sewer, either by gravity or with approved pumping facilities within ninety (90) days after the date of official notice to do so, provided that a public sewer is available to or on the property and/or at a property line of said property and the structures or buildings are within one hundred meters of the public sewer. (prior code section 5.417)

13.24.780 EXCEPTIONS TO USE OF PUBLIC SEWERS

1. Within ninety (90) days of notification under Section 13.24.780 of this chapter, a property owner may file a written objection with the city administrator against being required to install said facilities. In that case, the city shall not enforce the provisions of section 13.24.780 upon the owner until the council has met to hear the owner's objections and rendered its decision thereon.

2. Such a meeting shall be held not less than ten (10) nor more than forty-five (45) days from the date of filing said objections with the administrator. Not less than seven (7) days prior to the meeting, the council shall give due notice of the date to the complaining owner.

3. The council may, after consideration of the objections, waive present connection to the public sewer if, in the council's judgment, there would be hardship or an undue expense or difficulty involved to either the objecting party or to the city or if there are other factors present which would make compliance impractical.

4. The decision of the council is final and no appeal shall be taken therefrom except as is provided by law.

5. Whenever an exception has been allowed to the requirement to connect to the public sewer, the administrator shall make a notation thereof in the city records. The council may at any time review such exceptions, and if the council decides that an exception should no longer be permitted, official notice to connect shall be sent to the property owner. Said owner shall then be required to connect to the city sewer, subject to the provisions of this section for objection and hearing. (prior code 5.420)

13.24.790 EXTENSIONS: CONSTRUCTION BY PRIVATE PROPERTIES

1. The council, within its judgment, may provide that any area within the city not now served by the sewer facilities may allow the property owners in the area to construct the sewer facilities on said properties.

2. The construction shall be in accordance with plans and specifications approved by the city engineer and in accordance with plans and specifications approved by the DEQ. Installation of any equipment shall be in a manner satisfactory to and approved by a person authorized by the city to inspect said sewer installation.

3. When sewer installation is done by private persons and not by the city, and when all of the cost and expenses of installation and making the connections to the improvements located in the area served by the sewer are paid by such private persons, then there shall be no connection charge made to any residence or unit of multiple residence when such residences are connected to the municipal water system.

4. Where sewer expansion is done by private persons under supervision of the city, the city and the persons doing the work shall agree as to the time within which said sewer extension work shall be done. Upon completion of the work and acceptance thereof by the city, all sewer mains, laterals, and connections shall be turned over to the city free and clear of any expenses for their construction and installation. The person doing the construction shall, before turning over the sewer system to the city, prepare a map or plat showing all of the property served by said facilities and the lots, parts of lots, or parcels of ground actually hooked up to said sewers.

5. All other properties served by said sewer installation, but which do not have a service connection running from the sewer mains or laterals to the property lines shall, when connecting up, pay a lump sum connection charge of one-hundred fifty dollars ($150.00), or such other sum as the council may from time to time provide. (prior code section 5.535)

13.24.800 DESTRUCTION OF PREMISES SERVED BY SEWER SYSTEM

1. Whenever any improvement which is connected to the municipal sewer system is wholly destroyed by fire or other casualty or is torn down and is no longer connected to the sewer system, the owner thereof shall notify the city administrator in writing, stating the date of destruction or removal, and shall pay up all sewer service charges that have accrued to the date of the notice.

2. Thereafter there shall be no monthly service charge made to said property until new improvements are placed on the premises and are connected to the sewer system.

3. The city administrator, upon receipt of notice of a destruction or removal as specified in Subsection 1. of this section, shall verify such destruction or removal, shall make proper notation thereof in the appropriate records of the city, and shall remove such property from the monthly sewer charges until the property is again connected to the municipal sewer system.

4. The owner of the property covered under any provisions of this sections shall be responsible for capping and plugging any unused sewer line. (prior code section 5.540)

13.24.810 DAMAGING OF SYSTEM PROHIBITED

1. No person shall unlawfully, maliciously, willfully, or, as the result of gross negligence on his part, break, damage, destroy, uncover, deface, or tamper with any structure, facility, appurtenance, or equipment which is part of the sanitary sewer system of the city.

2. This section shall not apply to any city employee during the time he is engaged in his official employment, nor to any persons authorized to work in any manner on the city sewer system. (prior code section 5.560)

13.24.820 APPEALS

Any person aggrieved by any of the provisions of this chapter shall state their complaint in writing to the council, which shall hold a hearing to determine the issue involved and make suitable adjustments as it may deem fit. (prior code section 5.565)

13.24.830 INSPECTORS: POWERS AND DUTIES

1. The superintendent and other duly authorized city employees bearing proper credentials and identification shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling, and testing in accordance with the applicable provisions of this chapter.

2. The superintendent or his representatives shall have no authority to inquire into any processes, including metallurgical, chemical, oil refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

3. The superintendent and other duly authorized city employees bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

4. While performing the necessary work on private properties as detailed in this section, the superintendent or duly authorized city employee shall observe all safety rules applicable to the premises established by the company. The company shall be held harmless for injury or death to the city employees and the city shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as

such may be caused by negligence or failure of the company to maintain safe conditions as required by section 13.24.1040 of this chapter. (prior code section 5.550)

13.24.840 SEPARATE SYSTEMS REQUIRED

A separate and independent building sewer shall be provided for every building except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer. (prior code section 5.430)

13.24.850 REPAIRS TO SYSTEM

1. It shall be the responsibility of the property owner to repair or replace any building sewer showing any defect including, but not limited to, leaks, breaks, settlement, or stoppages.

2. Work on any repairs or replacements under this article shall begin within five (5) days after notification by the city and shall be accomplished without unnecessary delay.

3. If the work is not begun within the specified time or the work does not meet the City specifications in the opinion of the city engineer, the city shall do the work or cause the work to be done. The persons warranting the original construction shall be liable to the city for any costs of such repair.

4. If an emergency is caused by any defect in the sewer or if such defect endangers persons, property, or city utilities or equipment, the city may undertake the necessary repairs without notification to any person, and the costs thereof shall be paid by the person warranting the original construction. The city shall be the sole judge of whether an emergency exists. (prior code section 5.433)

13.24.860 EXCAVATIONS: PUBLIC SAFETY MEASURES

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city. (prior code section 5.436)

13.24.870 INSPECTION, TESTING, AND CERTIFICATION

1. After a sewer is constructed, but before backfill is in place, the applicant for a building sewer permit shall notify the superintendent that the sewer is ready for inspection and connection to the public sewer.

2. A three-minute interval hydrostatic test will be required on all building sewers before connection is made to the building drain. All water, plugs, and other facilities for making the test shall be

furnished by the applicant. Minimum head over the top of the pipe shall be two fee and maximum allowable leakage shall be four (4) gallons per hour per one-hundred feet.

3. The superintendent shall conduct such other testing and inspection as may be necessary to ensure compliance with the standard specifications and other applicable law.

4. After final approval and testing of the building sewer by the superintendent, the owner shall make the final connection to the building drain and complete the sewer, including manholes, service lines, and backfill, unless instructed otherwise by the superintendent.

5. When any sewer has been formally accepted by the superintendent as conforming to all state and city requirements, the superintendent shall so certify to the city administrator, who shall keep a record of such sewer installation acceptances with the date of acceptance noted thereon. (prior code section 5.435, 5.437)

13.24.880 PRIVATE SEWERS: PERMITTED WHEN

Where a public sanitary or combined sewer is not available under the provisions of Section 13.24.770 of this chapter, the building sewer shall be connected to a private sewage disposal system, complying with the provisions of Sections 13.24.890 through 13.24.920 of this chapter. (prior code section 5.450)

13.24.890 PERMIT REQUIRED: INSPECTION FEE

1. Before commencing construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the superintendent.

2. The application for such permit shall be made on a form furnished by the city, which the applicant shall supplement by any plans, specifications, and other information which the superintendent may deem necessary.

3. A permit and inspection fee as provided by the county and state schedule shall be paid to the city at the time the application is filed. (prior code section 5.453)

13.24.900 INSPECTION

1. A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the superintendent.

2. The superintendent shall be allowed to inspect the work at any stage of construction and, in the event the applicant for the permit shall notify the superintendent when the work is ready for final inspection and before any underground portions are covered.

13.24.910 CONSTRUCTION AND OPERATION STANDARDS

1. The type, capacity, location, and layout of a private sewage disposal system shall comply with all recommendations of the DEQ.

2. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than three-thousand square meters.

3. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

4. The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times at no expense to the city.

5. No statement contained in this chapter shall be construed to interfere with any additional requirements that may be imposed by the health officer or by state law or regulations. (prior code section 5.457)

13.24.920 CONNECTION TO PUBLIC SYSTEM: REQUIREMENTS

1. When a public sewer becomes available to a property served by a private sewage disposal system, a direct connection shall be made to the pubic sewer in compliance with other provisions of this chapter relating to sewers, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned, cleaned of sludge, and filled with clean bank-run gravel or dirt.

2. Such abandonment shall take place within sixty (60) days of the time public sewer becomes available.

3. Where existing buildings are too low to be served by gravity by an available sewer, the existing septic tank facilities shall be maintained in use and, when so ordered by the city, approved pumping facilities shall be installed to pump the septic tank effluent into the available sanitary sewer system. (prior code section 5.460)

13.24.930 SURFACE WATERS AND ROOF RUNOFF

No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or polluted industrial process waters to any sanitary sewer. (prior code section 5.465[1])

13.24.940 UNPOLLUTED WATERS

Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the superintendent. Industrial cooling water or unpolluted process waters may be discharged, on approval of the superintendent, to a storm sewer, combined sewer, or natural outlet. (prior code section 5.465[2])

13.24.950 PROHIBITED DISCHARGES

No person shall discharge or cause to be discharged any of the following described waters and wastes to any public sewers:

1. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas;

2. Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure, to interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to, cyanides in excess of two (2) milligrams per liter, as NC in the waters as discharged to the public sewer;

3. Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works;

4. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails, and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders. (prior code section 5.465[3]

13.24.960 RESTRICTED DISCHARGES

No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely, in the opinion of the superintendent, that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance:

1. Any liquid or vapor having a temperature higher than sixty-five degrees (65^{o}) celsius;

2. Any water or wastes containing fats, gas, grease, or oils, whether emulsified or not, in excess of one-hundred milligrams per liter, or containing substances which may solidify or become viscous at temperatures between zero and sixty-five degrees (65^{o}) celsius;

3. Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths horsepower or greater shall be subject to the review and approval of the superintendent;

4. Any waters or wastes containing strong acid, iron pickling wastes, or concentrated plating solutions, whether neutralized or not;

5. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances, or wastes exerting an excessive chlorine requirement to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the superintendent for such materials;

6. Any waters or wastes containing phenols or other taste or odor-producing substances in such concentrations exceeding limits which may be established by the superintendent as necessary, after

treatment of the composite sewage to meet the requirements of the state, federal, or other public agencies of jurisdiction for such discharge to the receiving waters;

7. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the superintendent in compliance with applicable state or federal regulations;

8. Any waters or wastes having a pH in excess of 9.0;

9. Materials which exert or cause:

   a. Unusual concentrations of inert suspended solids (such as, but not limited to, Fuller's earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate);

   b. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions);

   c. Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works;

   d. Unusual volume of flow or concentration of wastes constituting "slugs";

10. Waters or wastes containing substances which are not amendable to treatment or reduction by the sewage treatment processes employed, or are amendable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters. (prior code section 5.465[4])

13.24.970 DETERMINATION OF ACCEPTABILITY OF WASTES

1. In forming an opinion as to the acceptability of the wastes listed under Section 13.24.960 of this article, the superintendent shall give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction in the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors.

2. If the superintendent determines that the substances listed under Section 13.24.960 of this article are not acceptable by the criteria listed in that section, he may:

   a. Reject the wastes;

   b. Require pretreatment to an acceptable condition for discharge to the public sewers;

   c. Require control over the quantities and rates of discharge; and/or
   d. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges. (prior code section 5.467)

13.24.980 PRETREATMENT OR FLOW-EQUALIZING FACILITIES GENERALLY

1. If the superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the superintendent and subject to the requirements of all applicable codes, ordinances, and laws.

2. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense. (prior code section 5.470[1, 3])

13.24.990 GREASE, OIL, AND SAND INTERCEPTORS

Grease, oil, and sand interceptors shall be provided when, in the superintendent's opinion, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients, provided that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection. (prior code section 5.470[2])

13.24.1000 REVIEW AND ACCEPTANCE REQUIRED WHEN:

Review and acceptance of the approving authority shall be obtained prior to the discharge into the public sewers of any water or wastes having:

1. A total of more than thirty (30) pounds of suspended solids in any one day;

2. A total of more than thirty (30) pounds of BOD in any one day. (prior code section 5.480[1])

13.24.1010 REPORT REQUIRED

Each person desiring to make a new connection to a public sewer for the purpose of discharging industrial wastes shall prepare and file with the approving authority and the Oregon State Department of Environmental Quality a report that shall include actual or predicted data relating to the quantity and characteristics of the waste to be discharged. (prior code section 5.480[2])

13.24.1020 PRELIMINARY TREATMENT FACILITIES

1. The person discharging industrial wastes into the public sewer system at his expense shall provide preliminary treatment or processing facilities which are in conformance with the most recent U.S. Environmental Protection Agency guidelines or regulations.

2. Plans, specifications, and any other pertinent information relating to proposed pretreatment or processing facilities shall be submitted for approval to the approving authority and to the Oregon State Department of Environmental Quality prior to the start of their construction if the effluent from such facilities is to be discharged into the public sewers. (prior code section 5.485)

13.24.1030 FLOW RECORDS REQUIRED

The person discharging the waste shall keep flow records as required by the city and shall provide qualified personnel to properly maintain and operate the facilities. (prior code section 5.502)

13.24.1040 MEASUREMENT AND SAMPLING: EQUIPMENT

1. When required by the superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the superintendent. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.

2. All flow measurement and sampling devices, access facilities, and related equipment shall be installed by the person discharging the industrial waste at his expense, and shall e maintained by him so as to be in safe condition, in proper operating condition at all times, and readily accessible to city forces during the operating day.

3. The flow measurement device can be a Parshall flume, weir, venturi nozzle, magnetic flow meter, or any other type of device providing accurate and continuous flow indication. Pump timers or other indirect measurement devices will not be acceptable.

4. The flow meter shall be suitable for indicating and totalizing the flow in millions of gallons per day through the device provided above, with an error factor not exceeding plus or minus two percent. The instrument shall be equipped with a set of electrical contacts arranged to momentarily close a circuit to energize a process timer and sampling device for every fixed quantity of flow. This quantity should be selected so as to insure a minimum of fifty (50) samples per operating day. Other control variations will be acceptable if it can be demonstrated that the sampling procedure will result in a waste sample which is proportional to the waste flow. The length of operation of the sampling device shall be dependent upon the type of sampling arrangement used, but in no case shall the daily collected sample be less than two (2) quarts in volume. (prior code section 5.495)

13.24.1050 MEASUREMENT SAMPLING: METHOD

1. The methods of sampling used can be by continuous pumping past a solenoid-operated valve, direct pumping into the sample container, continuous pumping past a sampler dipper calibrated to

remove a constant sample, by a proportional dipper sampler operating directly in the waste flow, or by any other approved means.

2. All samples must be continuously refrigerated at a temperature of thirty-nine degrees Fahrenheit (39^{o}), plus or minus five (+/- 5^{o}) degrees. (prior code section 5.497)

13.24.1060 MEASUREMENT SAMPLING: STATION

The flow measurement and sampling station shall be located and constructed in a manner acceptable to the city. Complete plans on all phases of the proposed installation, including all equipment proposed for use, shall be submitted to the city for approval prior to construction. (prior code section 5.500)

13.24.1070 MEASUREMENT AND SAMPLING: ANALYSIS

The waste samples will be collected and tests performed by city personnel. Laboratory procedures used in the examination of industrial wastes shall be those set forth in "Standard Methods;" however, alternate methods of certain analyses of industrial wastes may be used. (prior code section 5.501)

13.24.1080 MEASUREMENT AND SAMPLING: STANDARDS

1. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at the control manhole provided or upon suitable samples taken at said control manhole.

2. If no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected.

3. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property.

4. The particular analysis involved will determine whether a twenty-four hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained for twenty-four hour composite of all outfalls, whereas pHs are determined from period grab samples. (prior code section 5.505)

13.24.1090 CHARGES: BASIS FOR COMPUTATION

1. Each person discharging industrial wastes into a public sanitary sewer with a daily total in excess of two-hundred (200) pounds or more of either BOD or suspended solids shall, when directed by

approving authority, construct and maintain approved measurement, sampling, and sample storage facilities for all waste entering the sanitary sewer. These facilities will be used to obtain flow, BOD, and suspended solids data for use as a basis for an industrial waste sewer service charge.

2. Persons discharging industrial wastes into a public sanitary sewer with a daily total of two-hundred (200) pounds or less of either BOD or suspended solids shall have the option of installing measurement and sampling facilities for the purpose of receiving an industrial waste sewer service charge based on quantity and strength of the waste, or may elect to have their industrial waste charge based on total metered water consumption from all sources.

3. The city shall determine, by at least two (2) composite water samples a year taken at the industrial waste discharger's expense, if the industrial waste loading, based on either BOD or suspended solids, does not exceed two-hundred (200) pounds per day. If three consecutive measurements by the city indicate that the two-hundred-pound-per-day rate is being exceeded, then, when directed by the approving authority, the owner must construct and maintain measurement and sampling facilities as specified in this section as a basis for computing the sewer service charge. (prior code section 5.490)

13.24.1100 CHARGES: CALCULATION

1. The industrial user charge shall be calculated using the standard quantity/quality formula:

$$C_u = V_c V_u + B_u + S_c S_u + P_c P_u$$

Where:

C_u is the total user charge per month;

V_c is the operation and maintenance cost for transportation and treatment of the waste water volume per month;

V_u is the volume of waste water from a user per month;

B_c is the operation and maintenance cost for treatment of a unit of BOD;

B_u is the total BOD contribution from a user per month;

S_c is the operation and maintenance cost for treatment of a unit of suspended solids;

S_u is the total suspended solids contribution from a user per month;

p_c is the operation and maintenance cost for treatment of a unit of any pollutant;

P_u is the total contribution of any pollutant from a user per month.

2. In the absence of any current breakdown of operation and maintenance figures of the sewer treatment plant for any volume or pollutant component, the rate may be calculated based on the total volume of wastewater per month times the total operation and maintenance cost of the plant as determined each year under the Stayton-Sublimity sewage agreement, plus the regular rate for industrial users discharging domestic waste only.

3. All industrial users shall be required to pay that portion of the federal assistance grant under PL 92-500 allocable to the treatment of waste from such users, and shall comply with all applicable rules and regulations under such grant. (prior code section 5.513)

13.24.1110 CHARGES: SEPARATE METERING

Water supplied to any commercial or industrial user which is not discharged to a public sewer may be separated from other uses in the establishment and supplied by a separate water meter. The water account of such service shall not carry with it a sewer charge if such water is not discharged to a public sewer. Internal metering within the establishment for the purpose of separating uses will not be recognized. (Ord. 619, section 3, 1985: prior code section 5.511)

13.24.1120 INDUSTRIAL COST RECOVERY

1. The system for industrial cost recovery, as outlined in the August 21, 1973 Federal Register, Vol. 38, No. 161, shall be implemented and maintained according to the following requirements:

   a. Each year during the industrial cost recovery period, each industrial user of the treatment works shall pay its share of the total federal grant amount divided by the recovery period.

   b. The industrial cost recovery period shall be equal to thirty (30) years or the useful life of the treatment works, whichever is less.

   c. Payments shall be made by industrial users no less often than annually. The first payment by an industrial user shall be made not later than one (1) year after such user begins use of the treatment works.

   d. An industrial user's share shall be based on all factors which significantly influence the cost of the treatment works, such as strength, volume, and flow rate characteristics. As a minimum, an industry's share shall be based on its flow versus treatment works capacity except in unusual cases.

   e. An industrial user's share shall be adjusted when there is a substantial change in the strength, volume, or flow rate characteristics of the user's wastes, or if there is an expansion or upgrading of the treatment works.

   f. An industrial user's share shall not include any portion of the federal grant amount allocable to unused or reserved capacity.

g. An industrial user's share shall include any firm commitment to the city of increased use by such user.

h. An industrial user's share shall not include an interest component.

2. This requirement applies only to those features of waste water treatment and transportation facilities which have been constructed with federal assistance administered by the U.S. Environmental Protection Agency under PS 92-500. (prior code section 5.515)

13.24.1130 DISPOSITION OF INCOME FROM INDUSTRIAL USERS

1. The city shall retain fifty percent (50%) of the amounts recovered from industrial users. The remainder, together with any interest thereon, shall be returned to the U.S. Treasury on an annual basis.

2. A minimum of eighty percent (80%) of the retained amounts, together with interest earned thereon, shall be used solely for the eligible costs of the expansion or reconstruction of treatment works associated with the project and necessary to meet the requirements of PL 92-500.

3. Pending use, the city shall invest the retained amounts for reconstruction an expansion in:

a. Obligations of the U.S. government;

b. Obligations guaranteed as to principle and interest by the U.S. government or any agency thereof; or

c. Shall deposit such amounts in accounts fully collateralized by obligations of the U.S. government or by obligations fully guaranteed as to principle and interest by the U.S. government or any agency thereof. (prior code section 5.520)

13.24.1140 SPECIAL ARRANGEMENTS PERMITTED

No statement contained in this article shall be construed as preventing any special agreement or arrangement between the city and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the city for treatment subject to payment therefore by the industrial concern. (prior code section 5.507)

13.24.1150 CONNECTION CHARGES

All houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes which are required to connect to the public sewer under the provisions of this code shall pay a connection charge for each separate connection provided to the property, except as provided in Section 13.24.790 of this chapter. (prior code section 5.440)

13.24.1170 CHARGES: PAYMENT

The minimum service charge is payable when the request for public utilities is submitted in accordance with the current master utilities fee schedule. Actual costs exceeding the minimum charge will be calculated and paid by the customer prior to use. (Ord. 630, section 3[part], 1986: prior code section 5.033)

13.24.1180 DEPOSIT REQUIREMENTS

1. A separate customer deposit shall be required for use of the city sewer system in accordance with the same guidelines and procedures as set out for water deposits in Section 13.16.450 and 13.16,460 of this title.

2. Sewer service bills shall be due and accounts collected in accordance with the same guidelines and procedures as set out for water bills and accounts collection in Sections 13.16.490, 13.16.500, and 13.16.510.

3. For nonpayment of any sewer charges, water service may be disconnected in accordance with the procedures set out in Section 13.16.470.

13.24.1190 SEWER USER CHARGES: NON-INDUSTRIAL

1. Effective on a date certain determined by resolution of the Stayton City Council, sanitary sewer rates for non-industrial shall be established (Ord. 781, March 3, 1998).:

13.24.1200 VIOLATION: LIABILITY

Any person who, as the result of violating any of the provisions of this article, causes any expense, loss, or damage to the city shall immediately become liable to the city for the full sum of such expense, loss, or damage, and the sum shall constitute a lien against the property of the violator. The council may, at its discretion, instruct the city attorney to proceed against any such person in any court of competent jurisdiction in a civil action, to be brought in the name of the city for the recovery of the full sum of any such expense, loss, or damage. (prior code section 5.580)

13.24.1210 VIOLATION: NOTICE

Any person violating any of the provisions of this chapter relating to the sanitary sewer system, excepting section 13.16.610 of this chapter and those sections relating to payment of fees and charges shall be served by the city with written notice of the violation and providing a reasonable time limit for the satisfactory

correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations. (prior code section 5.575)

13.24.1220 VIOLATION: PENALTY

1. Violation of Section 13.16.160 of this chapter is deemed disorderly conduct and a misdemeanor, punishable by a fine not to exceed three hundred dollars ($300.00) or by imprisonment not to exceed one-hundred (100) days, or by both such fine and imprisonment.

2. Any person who continues a violation beyond the time limit provided for in Section 13.24.1210 of this article is guilty of a misdemeanor, punishable by a fine not to exceed five-hundred dollars ($500.00), or by imprisonment not to exceed one-hundred (100) days, or by both such fine and imprisonment. (prior code section 5.990[part])(Ord. 774, October 22, 1997).

3. The obligations and code provisions in Chapter 13.16, “Water Services,” shall be deemed applicable to this Chapter 13.24, “Sewer Services.”

Should any article, section subsection, paragraph, sentence, clause, or phrase of this ordinance be declared invalid, such declaration shall not affect the validity of any other article, section, subsection, paragraph, sentence, clause, or phrase; and if this ordinance or any portion thereof should be held to be invalid on one ground, but valid on another, it shall be construed that the valid ground is the one upon which said ordinance or such portion thereof was enacted.

TITLE 13. MASTER UTILITIES PLAN

CHAPTER 13.28

STREET LIGHT SERVICE

SECTIONS

13.28.1310 PURPOSE OF PROVISIONS

The City Council has determined that it is reasonable and in the public interest to enact and impose a street light service charge of the purpose of supplying street lighting in the City. (prior code section 5.200)

13.28.1320 CHARGES: IMPOSED, RATE

1. A street light service charge is imposed upon all sewer and water account holders in the City.

2. The just and equitable rate to be paid for the use of street lights shall be one dollar and eighty-five cents ($1.85) per month for the 1983-1984 fiscal year. This rate shall be modified annually by the Council to reflect a pro rata sharing of the cost of supplying street lighting as adjusted for expected collection difficulties and administrative costs. (prior code section 5.205)

13.28.1330 CHARGES: PAYMENT

Imposition of the street light service charge shall commence July 1, 1983. All service charges are due and payable at the City hall on the first day of each calendar month for the previous month's use, and will be collected in the same manner as the City water bills are collected. (prior code section 5.210)

13.28.1340 CHARGES: RESPONSIBILITY

If a tenant or other person residing at the address billed fails to pay for street light service within thirty (30) days after payment is due for any month's service, the City may submit said bill to the property owner who shall pay the bill immediately. (prior code section 5.215)

13.28.1350 CHARGES: DELINQUENT ACCOUNTS

1. A street light service charge becomes delinquent if it is not paid within thirty (30) days after it becomes due as specified in Section 13.24.030 of this chapter.

2. For public health and safety purposes the City furnishes sewer, water, and street lighting service. These services are deemed to be all interrelated and the City is under no obligation to furnish any or all of these services except upon the payment of charges thereof. Accordingly, the superintendent of public works or his designate may shut off water supplied to anyone whose street light service has become delinquent, such shut-off being in accordance with procedures found in Section 13.08.100 of this title. (prior code section 5.220)

City of Stayton
Chapter 13.32
STORM DRAINAGE UTILITY

Sections:

13.32.010 Short title.

This Chapter shall be known as the "Storm Drainage Utility Code."

13.32.020 Findings.

(1) The City provides a valuable public service by providing storm drainage facilities for the collection and disposal of storm water discharged from properties and public rights-of-way within the City. The storm drainage facilities constitute a public utility owned and operated by the City. The utility exists for the benefit of any person within the City who wants to have the public storm drainage facilities available for the diversion, collection and/or disposal of storm drainage and other runoff water from the person's property and represents a municipal service in a developed urban environment which is essential to the public health, safety and welfare.

(2) Persons who use the public storm drainage facilities ought to be charged fees that reflect the cost of the management, maintenance, extension and construction of the public storm drainage facility as a public utility in the City. Persons who undertake the installation of runoff control facilities on their property that reduce or eliminate the discharge of storm water into public storm drainage facilities ought to be given credit, in proportion to the degree of reduction, against storm drainage utility fees that would otherwise be due.

(3) Accordingly, the structure of the storm drainage utility fee is intended to be a fee for service and not a charge against the property. Although this structure is intended to constitute a service fee, even if it is viewed as a fee against property or against the person responsible, as a direct consequence of ownership of that property, the utility's fee structure should allow the person responsible to have the ability to control the amount of the fee.

Similarly, the utility fee structure should reflect the actual cost of providing the service and not impose fees on persons not receiving a service. The actual costs may include all costs the utility might incur were it in private ownership.

(4) Persons using water from the City potable water facilities use substantial amounts of water for irrigating lawns and gardens, washing structures, sidewalks, driveways and parking lots, and for other activities which result in the discharge of runoff into the public storm drainage facilities. These uses of water demonstrate a substantial relationship between persons' use of these water facilities and their use of the public storm drainage facilities.

(5) Storm water runoff is directly impacted by the extent of development and improvements which have occurred on a parcel of land, the location of a property within a drainage basin and the location of existing storm drainage facilities. The amount of storm water runoff from a parcel of land is directly proportional to the development on the property and the amount of impervious surface on the parcel. The type of use and the amount of impervious surface on a property demonstrate a substantial relationship between the use and the impact on storm drainage facilities.

(6) The Council concludes it is appropriate to have those who use storm drainage services or create the demand for such service to bear the cost of such service. Therefore, the Council further concludes it is appropriate for the City to establish a storm drainage utility fee for existing utility customers with rate categories based on the type of use and proportional to the amount of impervious surface existing on a served parcel of land.

13.32.030 Definitions.

Except where the context otherwise requires, the definitions contained in this Section shall govern the interpretation of this Chapter.

(1) "City Administrator" means the City's City Administrator or designee.

(2) "Development" means any constructed changes to improved or unimproved property including, but not limited to, buildings or other structures, private storm drainage facilities, mining, dredging, filling, grading, paving, excavation, or drilling operations.

(3) "Finance Director" means the City's Finance Director or designee

(4) "Impervious surfaces" means those surface areas which either prevent or retard saturation of water into the land surface and cause water to run off the land surface in greater quantities or at an increased rate of flow from that present under natural conditions preexistent to development. Examples of impervious surfaces include, but are not limited to, rooftops, concrete or asphalt sidewalks, walkways, patio areas, driveways, parking lots or storage areas and gravel, oil, macadam, or other surfaces which similarly impact the natural saturation or runoff patterns which existed prior to development.

(5) "Improved property" means any area which has been altered such that the runoff from the site is greater than that which could historically have been expected. Such a condition shall be determined by the Public Works Director.

(6) "Open drainageway" means a natural or constructed path, ditch or channel which has the specific function of transmitting natural stream water or storm water from a point of higher elevation to a point of lower elevation.

(7) "Person responsible" or "Person" means the owner, agent, occupant, lessee, tenant, contract purchaser, other person or entity having possession or control of property or the supervision of an improvement on the property.

(8) "Public Works Director" means the City's Public Works Director or designee.

(9) "Runoff control" means any measure approved by the Public Works Director that reduces storm water runoff from land surfaces on which development exists.

(10) "Single-Family Unit (SFU)" means a detached single family dwelling unit or an individual unit as "condominium unit." An SFU is presumed to have 2,500 square feet of impervious surface area for purposes of this chapter. The term "SFU" shall be inclusive of those units identified as detached

single family dwelling as defined in Title 17 of the Code, attached single family dwelling as defined in Title 17 of this Code, and condominiums.

(11) "Storm drainage facilities" means any structure(s) or configuration of the ground that is used or by its location becomes a place where storm water flows or is accumulated including, but not limited to, headgates, controls, pipes, sewers, gutters, manholes, catch basins, ponds, open drainageways, manmade or natural waterways and their appurtenances. For purposes of this Chapter, the North Santiam River, Stayton Ditch (Reid Power Canal), the Main Canal, the Salem Ditch, Lucas Ditch, and Mill Creek are storm drainage facilities.

(12) "Storm water" means water from precipitation, snow melt runoff, surface runoff and drainage from any source.

13.32.040 Storm drainage policy.

(1) The City Council declares its intention to acquire, own, manage, construct, equip, operate, and maintain within the City open drainageways, underground storm drains, equipment and appurtenances, necessary, useful, or convenient for public storm drainage facilities. The Council also declares its intention to manage, maintain and extend existing public storm drainage facilities.

(2) The improvement of both public and private storm drainage facilities through or adjacent to a new development shall be the responsibility of the developer or property owner. The improvements shall comply with all applicable City ordinances, the Stayton Municipal Code, City policies, public works design standards and construction specifications and the City of Stayton *Storm Water Master Plan*.

(3) No portion of this Chapter or statement or subsequent City interpretation or policies shall relieve the person responsible of assessments levied against their property for public facility improvement projects.

(4) It is the policy of the City to participate in improvements to storm drainage facilities when authorized by the Public Works Director. To be considered for approval by the Public Works Director, a storm drainage facility must:

(a) Be public;

(b) Be a major benefit to the community;

(c) Be located in or on a public property, public right-of-way or an easement benefitting the City; and

(d) Be identified as a project in the Master Plan; or

(e) Be identified in a storm drainage management agreement with another public entity; or

(f) Be a rehabilitation and/or replacement of existing public storm drainage facilities.

(5) The City shall maintain public storm drainage facilities located on City property, within a public right-of-way or within easements benefitting the City. Public storm drainage facilities to be managed by the City include, but are not limited to:

(a) Open drainageways;

(b) A piped drainage system and related appurtenances which has been designed and constructed expressly for use by the general public and accepted by the Public Works Director;

(c) Roadside drainage ditches along unimproved City streets;

(d) Flood control facilities (levees, dikes, overflow channels, detention basins, retention basins, dams, pump stations, groundwater recharging basins, etc.) that have been designed and constructed expressly for use by the general public and accepted by the City.

(6) The City shall not maintain private storm drainage facilities. Private storm drainage facilities are typically not located on City property and are not in the public right-of-way. Private storm drainage facilities may include, but are not limited to:

(a) Open drainageways and drainage swales;

(b) A piped drainage system and related appurtenances;

(c) Parking lot storm drainage facilities or systems;

(d) Roof, footing, and area drainages;

(e) Drainage systems not designed and constructed for use by the general public;

(f) Access drive or driveway culverts, either on private property or within the public right-of-way.

(g) Storm water detention basins, retention basins, ponds or wetlands.

13.32.050 Establishment of storm drainage utility.

A storm drainage utility is hereby created for the purpose of providing funds for the management, maintenance, extension and construction of public storm drainage facilities within the City or benefitting the City. The City Council finds, determines and declares the necessity of providing for the management, maintenance, extension and construction of City storm drainage facilities for health, safety, and general welfare of its inhabitants.

13.32.060 Establishment of storm drainage utility fee.

A storm drainage utility fee shall be paid by each person(s) responsible for residential and non-residential uses in the City.

(1) The storm drainage utility fee shall be established by resolution of the Council, following a public hearing.

(2) The storm drainage utility fee shall be established in amounts which will provide sufficient funds to properly manage and maintain public storm drainage facilities.

(3) The storm drainage utility fee may be used for the construction of new storm drainage facilities, for the extension or modification of storm drainage facilities and for the maintenance of existing storm drainage facilities.

(4) The Council may from time to time modify the storm drainage utility fee based upon revised estimates of the cost of properly managing, maintaining, extending, and constructing public storm drainage facilities.

(5) Property not used for single-family dwelling purposes shall be considered to be furnished service in proportion to the amount of the property's impervious surface, and that for each 2,500 square feet (or increment of 100 square feet) of impervious surface, the property is furnished service equivalent to that furnished a single-family unit and that the minimum monthly fee shall be that established for a single-family unit.

(6) The Council hereby classifies the fees imposed by this Code a fee not subject to the limits of section 11b, Article XI of the Oregon Constitution.

13.32.070 Fee Reduction or Waiver

(1) Except as the fee may be reduced or waived under subsection (2) of this Section, the obligation to pay the storm drainage utility fee arises when a person responsible uses storm drainage services. It is presumed that storm drainage services are used whenever there is an improved property and the person responsible requests water or sewer utility service. If there is no water service to the

property or if water service is discontinued and the property is an improved property, the storm drainage utility fee shall be paid by the person having the right to occupy the property. The person required to pay the fee is hereafter referred to as the utility customer.

(2) A utility customer may request a reduction or waiver of the storm drainage utility fee by filing an application on forms provided by the City. The storm drainage utility fee will be reduced in relation to the customer's ability to demonstrate that on-site storm drainage facilities meet or exceed the City's standards for storm water quantity and quality control at that site and the site does not discharge to public storm drainage facilities.

(a) Fee Waiver: The criteria for waiver of the storm drainage utility fee as it applies to a specific customer includes:

i. the location of the premises such that the premises has no frontage on a pubic street or driveway connection to a public street;

ii the total retention of storm water with no effective discharge to storm drainage facilities;

iii. the petitioner's ability to demonstrate through hydrologic/hydraulic analysis that the site receives no storm water service from the storm drainage facilities; and

iv. proof that the petitioner's on-site storm drainage facilities are constructed and will be maintained to City standards.

(b) Fee Reduction to Lowest Rate Category: The criteria for reduction of the storm drainage utility fee to the lowest rate category as it applies to a specific customer includes:

i. total retention of storm water with no effective discharge to the storm drainage facilities;

ii. the petitioner's ability to demonstrate through hydrologic/hydraulic analysis that the site receives no storm water service from the storm drainage facilities;

iii. proof that the petitioner's on-site storm drainage facilities are constructed and will be maintained to City standards; and

iv. the petitioner's property has an existing driveway access to a public street.

v. The base rate for the lowest rate category will be charged because the user has a direct driveway access to a public street and therefore utilizes public storm drainage facilities in the public streets and rights-of-way.

(c) Any fee reduction or waiver given shall continue until the condition of the property is changed or until the Public Works Director determines the property no longer qualifies for the credit given. Upon change in the condition of the property, another application may be made by a person responsible.

(3) For the purposes of this Chapter, dry wells are not an on-site mitigation control system eligible for fee reduction or fee waiver because of the potential water quality impact that dry wells may have on the City's groundwater resources.

13.32.080 Storm drainage utility fee – Dedicated.

All fees collected for the purposes specified in this Chapter shall be paid into the storm drainage accounts and accounted for by dedicated line items including, but not limited to, storm drainage maintenance and storm drainage construction. Such revenues shall be used for the purposes of the management, maintenance, extension, and construction of public storm drainage facilities.

13.32.090 Administration and Enforcement.

(1) The storm drainage utility fee shall be billed and collected with and as part of the monthly utility bill for those lots or parcels utilizing City water and/or sewer. For new construction the collection of the

storm drainage utility fee will begin at the time the City begins collection of the monthly utility bill. In the event of non-payment, the City may bill the utility customer or take other action as authorized by law to collect from the responsible party.

(2) In the event funds received from City utility billings are inadequate to satisfy in full all of the sanitary sewer charges, water charges, transportation maintenance fees and storm drainage utility fees, credit shall be given first to the sanitary sewer charges, second to the water service charges, third to the transportation maintenance fee and fourth to the storm drainage utility fee.

(3) Any fee due which is not paid when due may be recovered in an action at law by the City. In addition to any other remedies or penalties provided by this Chapter, the Stayton Municipal Code or any other City ordinance, failure of any person responsible to pay fees promptly when due shall subject the person responsible to discontinuance of any utility services provided by the City and the City Administrator is empowered and directed to enforce this provision against such delinquent users. The employees of the City shall, at all reasonable times, have access to any improved property served by the City for inspection, repair, or the enforcement of the provisions of this Chapter. The City's enforcement rights shall be cumulative.

13.32.100 Administrative review – Appeals.

(1) Any utility customer who disputes the amount of the storm drainage utility fee or the category of use assigned to the customer's property pursuant to this Chapter may request a review and appeal such interpretation, but only in accordance with this Section. The dispute must first be presented to the Finance Director for review/settlement; and, if not settled, thereafter may be appealed to the City Administrator in accordance with this Section. Failure to appeal an interpretation made under this Chapter within the time and in the manner provided shall be sufficient cause to deny the relief requested. Disputes which result in changes in the storm drainage utility fee charged under this Chapter shall become effective with the next billing cycle.

(2) Upon receipt of a disputed billing, the Finance Director shall conduct a review of the charges or the category of use assigned. The Finance Director will consider all relevant evidence presented by the customer and may request additional information from the public works department in order to render a decision. The Finance Director shall make a determination based on the evidence provided and provide notice to the customer.

(3) A customer who wishes to appeal the Finance Director's decision shall submit a written appeal to the City Administrator within 10 days from the date of notice of the Finance Director's determination. The appeal shall specify the reasons for the appeal. The City Administrator shall review the matter and notify the appellant of the decision reached, in writing, within fifteen (15) calendar days. The City Administrator's decision shall be final.

13.32.110 Exemptions.

The City Council may, by resolution, exempt any class of user when the Council determines that the public interest deems it necessary or that the contribution to storm drainage facility use by the class to be insignificant.

13.32.120 Severability.

In the event any section, subsection, paragraph, sentence or phrase of this Chapter is determined by a court of competent jurisdiction to be invalid or unenforceable, the validity of the remainder of the Chapter shall continue to be effective. If a court of competent jurisdiction determines that this Chapter imposes a tax or fee, which is therefore unlawful as to certain but not all affected properties, then as to those certain properties, an exception or exceptions from the imposition of the storm drainage fee shall be created and the remainder of this Chapter and the fees imposed thereunder shall continue to apply to the remaining

properties without interruption. Nothing contained herein shall be construed as limiting the City's authority to levy special assessments in connection with public improvements pursuant to applicable law.

13.32.130 Violation: Penalties

(1) Except as otherwise set out specifically in this Chapter, any person violating any of the provisions or failing to comply with the requirements of this Chapter is guilty of a violation.

(2) Except as otherwise provided in this Chapter, any person convicted of a violation of this Chapter shall be punished by a fine of not more than two hundred fifty dollars ($250.00).

(3) If any person has been convicted of a violation of this Chapter, at any time within two (2) years of such conviction, that person commits a second or subsequent violation, the person may be prosecuted as a misdemeanor, punishable by a fine of not more than one thousand dollars ($1,000.00).

(4) The remedies provided in this section are cumulative and not exclusive. In addition to the penalties provided above and those specifically set out in particular sections of this code, the City, by and through its authorized personnel, may pursue any remedy provided by law including the institution of injunction, mandamus, abatement, or other appropriate proceeding to prevent, temporarily or permanently enjoin, or abate a code violation.

13.32.140 Violation: Each Act a Separate Violation

Each day a violation continues constitutes a separate offense, and any person convicted of such offense shall be punished accordingly.

13.32.150 Effective Date

This Chapter will take effect on March 15, 2014.

TITLE 15.

BUILDINGS AND CONSTRUCTION

CHAPTERS

TITLE 15. BUILDINGS AND CONSTRUCTION

UNIFORM SIGN CODE

SECTIONS

15.04.010 ADOPTED

The Uniform Sign Code, 1973 Edition, published by the International Conference of building Officials, is adopted as the code of the city for regulating the erection and construction of signs in the city. (Ord. 570, 1982)

ERRATA

SMC 15.08 is modified and corrected to be SMC 15.06 throughout. This revision is a minor modification and does not change the content of the Municipal Code or Ordinance itself.

TITLE 15 - BUILDINGS AND CONSTRUCTION
Chapter 15.08
STAYTON RENTAL HOUSING CODE

SECTIONS:

15.06.010 TITLE

The provisions in Chapter 15.08 shall be known as the Stayton Rental Housing Code, may be cited as such, and will be referred to herein as "this Chapter."

15.06.020 PURPOSE

The purpose of this Chapter is to provide minimum habitability criteria to safeguard health, property, and public welfare of the owners, occupants, and users of residential rental buildings.

15.06.030 STATE OF OREGON RESIDENTIAL LANDLORD AND TENANT ACT

This Chapter is intended to supplement rather than conflict with the habitability standards of the State of Oregon Residential Landlord and Tenant Act (ORS Chapter 90).

15.06.040 SCOPE

1. Except as described below, this Chapter shall apply to all buildings or portions thereof which are legally used for human habitation and are covered by a rental agreement.
2. Those arrangements identified in the State of Oregon Residential Landlord and Tenant Act as excluded from its authority are also exempted from this Chapter. The following are exempted from this Chapter either through the State of Oregon Residential Landlord and Tenant Act or in addition to it:
    a. Hotels, motels and lodging houses.
    b. Hospitals and other medical facilities.
    c. Nursing homes, transition and rehabilitation residences, and similar facilities.
    d. Group SR (“Special Residence”) Occupancies.

ERRATA

SMC 15.08 is modified and corrected to be SMC 15.06 throughout. This revision is a minor modification and does not change the content of the Municipal Code or Ordinance itself.

15.06.050 DANGEROUS BUILDINGS CODE

Conditions which define a building as dangerous under SMC Title 8, Chapter 8.04 will be abated through the procedures specified in SMC Title 8, Chapter 8.04.

15.06.060 SEVERABILITY

If any section, paragraph, subdivision, clause, sentence, or provisions of this Chapter shall be adjudged by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect, impair, invalidate, or nullify the remainder of the Chapter, but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence or provision immediately involved in the controversy in which such judgment or decree shall be rendered, it being the intent of the governing body to enact the remainder of this Chapter notwithstanding the parts to be declared unconstitutional and invalid.

15.06.070 LIABILITY

The City officials charged with the enforcement of this Chapter, acting in good faith and without malice in the discharge of the duties required by this Chapter or other related laws and ordinances shall not thereby be rendered personally liable for damages that may accrue to persons or property as a result of an act or by reason of an act or omission in the discharge of such duties.

15.06.080 DEFINITIONS

For purposes of this Chapter, the following definitions shall apply:

1. *Agent:* A person authorized by another to act in his/her behalf.
2. *Building Code:* The currently adopted edition of the State of Oregon Structural Specialty Code.
3. *Building Official*: The individual(s) designated by the City Administrator to administer and enforce the building codes and inspect buildings.
4. *Dangerous Buildings Code:* Those provisions of SMC Title 8, Chapter 8.04 adopted for the abatement of unsafe buildings.
5. *Dwelling Unit:* A single unit providing complete independent living facilities for one or more persons including provisions for living, sleeping, eating, cooking and sanitation. For purposes of this Chapter, where portions of a residential building are occupied under separate rental agreements, but tenants share eating, cooking, and/or sanitation facilities, each portion under a separate rental agreement shall be considered a dwelling unit.
6. *Habitable Room:* Any room used for sleeping, living, cooking or dining purposes, but excluding closets, pantries, bath or toilet rooms, hallways, laundries, storage spaces, utility rooms and similar spaces.
7. *Group SR Occupancies:* Special residences where personal care is administered and that are licensed by, or subject to licensure by, or under the authority of the Oregon Department of Human Services or any other State agency.

ERRATA

SMC 15.08 is modified and corrected to be SMC 15.06 throughout. This revision is a minor modification and does not change the content of the Municipal Code or Ordinance itself.

8. *Mechanical Code:* The currently adopted edition of the State of Oregon Mechanical Specialty Code.
9. *Ordinance Enforcement Officer:* The individual designated by the City Administrator to enforce the provisions of this Chapter.
10. *Plumbing Code:* The currently adopted edition of the State of Oregon Plumbing Specialty Code.
11. *Rental Agreement:* All agreements, written or oral, concerning the use and occupancy of a dwelling unit and premises.

15.06.090 STANDARDS

1. Structural Integrity.
    a. Roofs, floors, walls, foundations, stairways and railings, and all other structural components shall be capable of resisting any reasonable stresses and loads to which these components may be subjected and shall be maintained in good repair.
    b. Structural components shall be of materials allowed or approved by the Building Code.
2. Plumbing.
    a. Each dwelling unit shall be provided with access to a toilet, bath or shower, and lavatory in a room or rooms separate from the habitable rooms and which affords privacy, within the building in which the dwelling unit is located.
    b. Plumbing systems shall be installed and maintained in a safe and sanitary condition and shall be free of defects, leaks and obstructions.
    c. Plumbing components shall be of materials allowed or approved by the Plumbing Code.
3. Heating.
    a. There shall be a permanently installed heat source with the ability to provide a room temperature of 68 degrees Fahrenheit three feet above the floor, measured in the approximate center of the room, in all habitable rooms. Portable space heaters shall not be used to achieve compliance with this section.
    b. All heating devices or appliances shall be of an approved type and shall conform to applicable law at the time of installation.
    c. Ventilation for fuel-burning heating appliances shall be as required by the Mechanical Code at the time of installation.
4. Electrical. Electrical lighting, fixtures and outlet and all other electrical equipment shall conform to applicable law at the time of installation and shall be maintained in good working order.

ERRATA

SMC 15.08 is modified and corrected to be SMC 15.06 throughout. This revision is a minor modification and does not change the content of the Municipal Code or Ordinance itself.

5. Weatherproofing.
    a. Roof, exterior walls, windows and doors shall be maintained to prevent water leakage into living areas which may cause damage to the structure or its contents or may adversely affect the health of an occupant.
    b. Repairs must be permanent rather than temporary and shall be through generally accepted construction methods.
6. Smoke Detectors. Every dwelling unit shall be equipped with an approved and properly functioning smoke alarm or smoke detector installed and maintained in accordance with the State Building Code, ORS 479.270, 479.275, and 479.285, and applicable rules of the State Fire Marshal.
7. Carbon Monoxide Detectors. Every dwelling unit shall be equipped with an approved and properly functioning carbon monoxide alarm in accordance with applicable rules of the State Fire Marshal if the dwelling unit contains a carbon monoxide source or is located within a structure that contains a carbon monoxide source and the dwelling unit is connected to the room in which the carbon monoxide source is located by a door, ductwork or a ventilation shaft.
8. Security. Doors and windows leading into a dwelling unit must be equipped with locks and shall be maintained in a condition so as to restrict access into the dwelling unit.
9. Buildings and Grounds. Buildings, grounds and appurtenances must be, at the time of the commencement of the rental agreement, in every part safe for normal and reasonably foreseeable uses, and shall be kept clean, sanitary and free from all accumulations of debris, filth, rubbish, garbage, rodents and vermin, and all areas under control of the landlord shall be kept in every part safe for normal and reasonably foreseeable uses, clean, sanitary and free from all accumulations of debris, filth, rubbish, garbage, rodents and vermin.
10. Interpretations.
    a. The Ordinance Enforcement Officer is empowered to render interpretations of this Section.
    b. Such interpretations shall be in conformance with the intent and purpose of this Chapter.

15.06.100 ENFORCEMENT

1. Authority.
    a. The Ordinance Enforcement Officer is hereby authorized and directed to enforce all the provisions of this Chapter.
2. Complaint.
    a. A complaint must be in writing and may be filed in person or by mail, e-mail or fax.
    b. A complaint must include the following:
        i. Name of person filing the complaint; complaints may not be submitted anonymously.

ii. Name of the landlord.

iii. Address of the alleged violation.

iv. A complete description of the alleged violation.

v. A copy of the written notice of the alleged habitability violation that has been sent by the tenant to the landlord.

c. A person who files a complaint must be a party to the current rental agreement covering the property in question or an agent of that party.

d. The Ordinance Enforcement Officer or any other City official or employee shall not report a person who files a complaint to immigration officials.

e. Complaints will be processed by Ordinance Enforcement Officer using an administratively adopted written procedure which includes the following:

i. confirmation that the complainant has standing to file a complaint;

ii. confirmation that the subject of the complaint, if confirmed, would be a violation of this Chapter;

iii. confirmation that the landlord has had seven days, plus three days for mailing per ORS 90.150(3), since mailing of the written notice by the tenant, to respond to the complaint; except that when the violation is an absence of: heat, water or hot water, or any properly functioning toilets, sinks or smoke detectors in the dwelling unit, confirmation that the landlord has had 48 hours, by written notice from the tenant, to respond to the complaint; and

iv. written notification to the landlord by the Ordinance Enforcement Officer of the complaint.

3. Ordinance Enforcement Officer Initiated Enforcement. Notwithstanding the provisions of Section 15.08.100.2 above, the Ordinance Enforcement Officer may enforce the standards of Sections 15.08.090.1, 15.08.090.5, and 15.08.090.9 without a complaint being filed when apparent violations are visible from a public street or property with public access.

4. Investigations.

a. Investigations will be initiated only after the procedure established in Sect 15.08.100.2.E above has been followed.

b. The Ordinance Enforcement Officer will conduct an investigation to confirm the validity of the complaint.

c. If the complaint is determined to be not valid, the case will be closed and all parties notified.

d. If the complaint is determined to be valid, the Ordinance Enforcement Officer will issue a Notice of Violation and Order of Abatement.

5. Inspection and Right of Entry. When it may be necessary to inspect the buildings or premises to enforce the provisions of this Chapter, the Ordinance Enforcement Officer, in accordance with administrative policy, may enter the building or premises at reasonable times to inspect

or to perform the duties imposed by this Chapter, provided that if such building or premises is occupied, that credentials be presented to the occupant and entry requested. If such building or premises is unoccupied, the Ordinance Enforcement Officer shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If entry is refused, the Ordinance Enforcement Officer shall have recourse to the remedies provided by SMC Title 1, Chapter 1.24 to gain entry.

6. Notices and Orders.
    a. For valid complaints, the Ordinance Enforcement Officer shall issue a Notice of Violation and Order of Abatement to the landlord. The Notice and Order shall include the following:
        i. Street address.
        ii. A statement that the Ordinance Enforcement Officer has found the building or premises to be in violation of this Chapter as alleged in the complaint.
        iii. A thorough description of the violation.
        iv. Statements advising the landlord that if the required repairs or corrective actions are not completed within seven days, plus three days for mailing from the date of the Notice and Order (48 hours when the Code violation is an absence of: heat, water or hot water, or any properly functioning toilets, sinks or smoke detectors in the dwelling unit), then Ordinance Enforcement Officer shall:
            a) Record the Notice and Order against the property.
            b) Coordinate the issuance of a citation to the landlord to appear in Stayton Municipal Court.
            c) Initiate action to recover all City costs associated with the processing of the complaint, investigation and the resolution of the matter.
        v. Statements that the landlord may appeal the Notice and Order as specified in this Chapter.
        vi. The date by which the repairs or corrective actions must be completed and a reinspection scheduled.
    b. The Notice of Violation and Order of Abatement, and any amended or supplemental Notice and Order, shall be posted on the premises and shall be served upon the landlord by first class mail, at the address of record in the Marion County Assessor's records.
7. Failure to Comply. If there is not compliance with the Notice and Order by the specified date, the Ordinance Enforcement Officer shall:
    a. Coordinate the issuance of a citation to the landlord to appear in Stayton Municipal Court;
    b. Record the Notice and Order against the property with all recording costs to be the responsibility of the landlord; and

c. Initiate an accounting for all costs associated with the processing of the complaint, investigation and the resolution of the matter with the intent and purpose of recovering these costs from the landlord. A lien may be placed on the subject property.

8. Compliance.
    a. Upon compliance with the Order of Abatement, the Ordinance Enforcement Officer will issue a Notice of Compliance to the landlord and to the complainant.
    b. If a Notice and Order was recorded against the property, the Ordinance Enforcement Officer will record the Notice of Compliance against the property.
    c. If an accounting was initiated for all costs associated with the processing of the complaint, investigation and the resolution of the matter, the Finance Director will proceed with collecting these costs from the landlord using adopted City procedures, including lien foreclosure.
9. Penalties. Any person violating any of the provisions of this Chapter shall, upon court conviction thereof, be punished by a fine as specified by Council Resolution. Each day that a violation remains unrectified after notification is a separate offense.

15.06.110 APPEALS

1. Appeal to City Administrator. Any tenant who has filed a complaint that the Ordinance Enforcement Officer determines is not valid may file a written appeal to the City Administrator within 10 days of the date the notice of determination was mailed. Any landlord who has been issued a Notice of Violation by the Ordinance Enforcement Officer may file a written appeal to the City Administrator within 10 days of the date the Notice of Violation was mailed.
2. City Administrator's Decision on the Appeal.
    a. The City Administrator shall consider the appeal within 15 days from the date of the City's receipt of the appeal. The City Administrator may, at the City Administrator's sole discretion:
        i. Remand the matter back to the Ordinance Enforcement Officer for reconsideration;
        ii. Grant the request on appeal, with or without conditions; or
        iii. Deny the request on appeal.
    b. The City Administrator shall issue a written Notice of Decision regarding the appeal. The City Administrator's decision may be appealed, in writing, to the City Council.
3. Appeal to City Council.
    a. The City Administrator's decision to approve or deny an appeal may be appealed by the tenant or the landlord to the City Council within 10 days of the mailing of the Notice of Decision. The appeal shall be in writing and shall clearly describe the matter being appealed and the grounds for the appeal. The City Council shall consider the appeal at a regularly scheduled meeting, no later than 45 days from the date of the

City's receipt of the appeal. The Mayor may invite testimony, at the Mayor's discretion. The City Council may, at its discretion:

i. Remand the issue back to the City Administrator for reconsideration;

ii. Grant the request on appeal, with or without conditions; or

iii. Deny the request on appeal based on the record.

b. The City Council's decision is final.

4. Appeal Fee. Any appeal submitted under this Section shall include a filing fee to be established by Council Resolution.

5. Scope of Appeal. Appeals may be filed regarding notices, orders, interpretations and decisions made by the Ordinance Enforcement Officer or the City Administrator relative to this Chapter.

6. Form of Appeal. An appeal must be in writing and include the following:

   a. Name of person filing the appeal.

   b. Copy of the notice and order.

   c. Copy of the section of this Chapter which is being appealed.

   d. A complete description of the issues and an explanation of the appeal.

   e. What determination is requested of the City Administrator or City Council.

7. Appeal Procedure.

   a. Appeals shall be submitted to the Planning and Development Director. The Planning and Development Director shall confirm that the appeal meets the filing criteria and the appeal request and explanation is complete.

   b. If the filing criteria have not been met, the person filing the appeal will be so notified. In the discretion of the Planning and Development Director, the filing deadline may be extended by an additional three days to allow the appellant to resubmit an appeal document that has been deemed incomplete. Only one extension may be granted.

   c. If the filing criteria are met, the Planning and Development Director shall forward the appeal to the City Administrator or schedule a hearing before the City Council, as appropriate.

15.06.120 FEES

1. For the purpose of offsetting costs to the City associated with the enforcement of this Chapter there is hereby imposed an annual fee, to be established by Council Resolution, for each dwelling unit covered by a rental agreement.

2. The following unit types, while subject to the standards, enforcement procedures, and other requirements established in this Chapter, shall be exempt from the fee payment requirements of this Section: rentals with a recorded deed restriction requiring the units to be rented affordably to households at or below 50% of the Area Median Income; rentals under contract with a public agency that requires the rental to be inspected at least annually and verifies that

the dwelling is rented to a low income household; and rentals designated as senior or disabled housing by a public agency.

3. The landlord is responsible for paying the annual fee upon written or electronic request. The Finance Director shall adopt and implement policies and procedures which include multiple written or electronic communications with landlords before assessing a penalty. The penalty established below is necessary to offset the actual cost of these procedures when payment of the annual fee is not timely made or when payment of the annual fee is not made.
4. Policy regarding penalties. Providing minimally habitable rental housing is of great importance within the City of Stayton. The costs of this program are intended to be somewhat offset by the annual fees, but the City Council also desires to not greatly increase the cost of renting residential property within the City. The City Council has balanced raising the amount of the annual fee in order to offset the cost of the program against the desire for landlords to pay the annual fee in a timely manner, and finds that an artificially lower annual fee that encourages timely payment is more likely to provide funding that offsets the costs of this essential program than is a higher fee which would capture all the administrative costs of collection. The City finds that staff charged with administration and enforcement of this program spend a grossly disproportionate portion of their time attempting to collect fees or to collect untimely fees from a relatively few landlords. The City Council finds that relatively low penalties for failing to pay the annual fee or for failing to pay the annual fee in a timely manner, encourages some landlords to fail to make payments or to make late and untimely payments. The City Council finds that relatively low penalties therefore result in an even more unfair apportionment of the cost of providing this essential program to other landlords and taxpayers, and threatens the City's ability to provide the service for the low annual fee.
5. Failure to pay the fee as requested will subject the landlord to the following actions:
    a. A penalty fee to be established by Council Resolution will be assessed to the landlord for each unpaid per unit fee if the annual fee is not paid by the date specified in the written or electronic request for payment.
    b. The City will initiate appropriate action to collect the fees due and all costs associated with these actions will be assessed to the landlord.
    c. Appropriate action may include placing a lien on the property.

TITLE 15. BUILDINGS AND CONSTRUCTION

CHAPTER 15.08

BUILDING NUMBERING AND STREET NAMING SYSTEM

SECTIONS:

15.08.10 UNIFORM NUMBERING SYSTEM

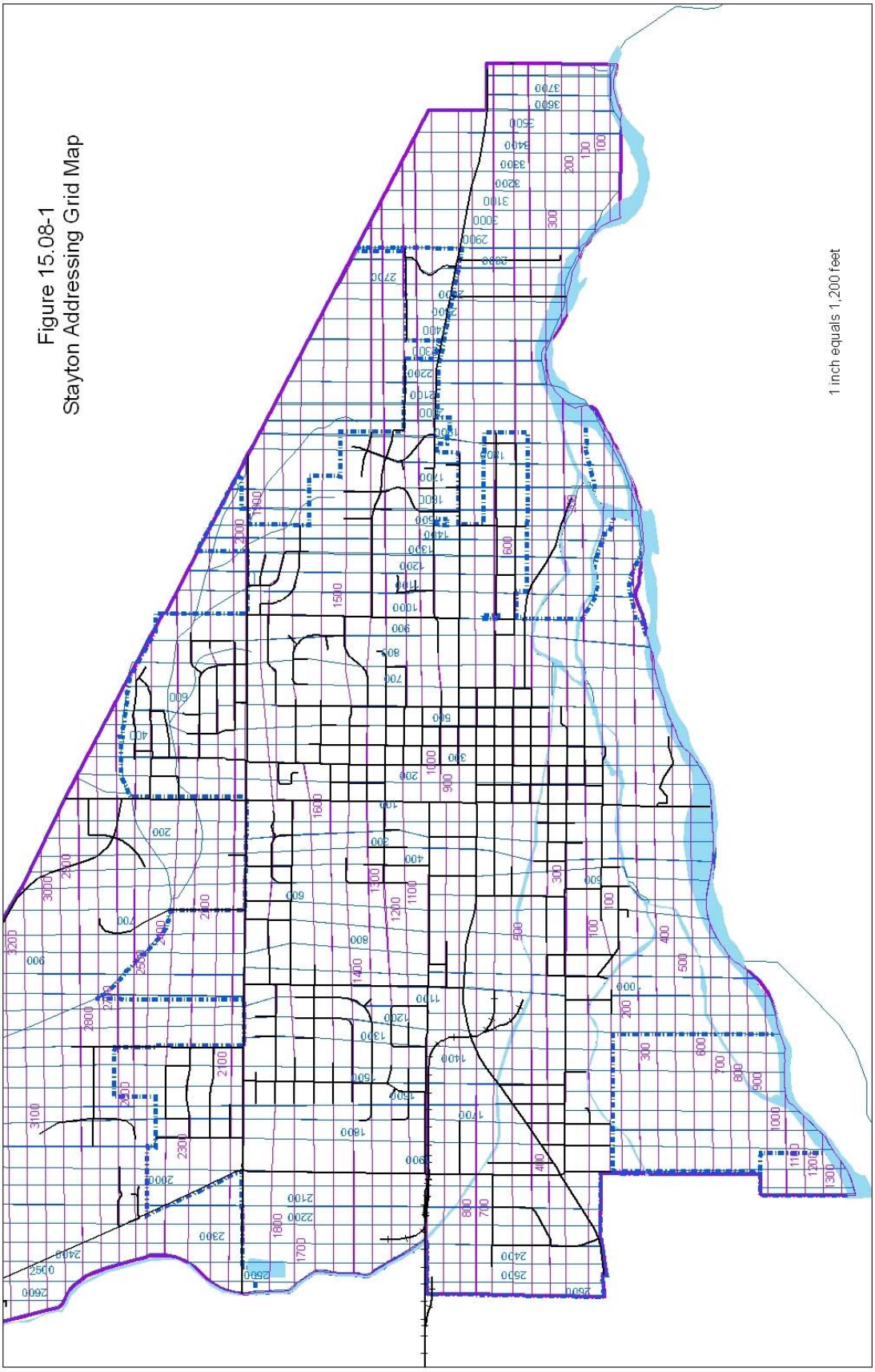
There is hereby established a uniform system of numbering all buildings fronting on all streets in the City of Stayton. In establishing this system, the City is divided into the following sectors:

A. Streets running generally east/west. First Avenue shall constitute the north-to-south base line from which the numbers on all buildings running easterly and westerly from First Avenue shall be extended each way, upon the basis of one number for each two feet of property frontage, wherever possible, starting at the base line with the number one hundred (100) and continuing with consecutive hundreds at each intersection, wherever possible. All even numbers shall be placed upon buildings on the southerly side of east/west streets and all odd numbers shall be placed upon buildings on the northerly side of east-west streets. [e.g. 180 W. Locust Street is in the first block west of 1st Avenue on the south side of the street; 351 E. Washington St. is in the 3rd block east of 1st Avenue on the north side of the street.]

B. Streets running generally north/south. Water Street shall constitute the east-to-west base line from which the numbers on all buildings running northerly and southerly from Water Street (or along the same latitudinal line) shall be extended each way, upon the basis of one number for each two feet of property frontage, wherever possible, starting at the base line with the number one hundred (100) and continuing with consecutive hundreds at each intersection, wherever possible. All even numbers shall be placed upon buildings on the easterly side of north-south streets and all odd numbers shall be placed upon buildings on the westerly side of north/south streets. [e.g. 105 S. First Avenue is located in the first block south of Water Street on the east side of the street; 362 N. Third Avenue is located on the third block north of Water Street on the east side of the street.]

C. Address Grid Map. Figure 15.08-1, "Stayton Addressing Grid Map" complies with the requirements of this chapter and illustrates addressing numbering for newly assigned addresses.

Figure 15.08-1
Stayton Addressing Grid Map



D. Address Map. The City shall prepare and maintain a "Stayton Address Map" which shows the location of all properties and building addresses within the city limits. The City will notify the appropriate agencies, including, but not limited to, Marion County, private utilities, the US Postal Service, and emergency service agencies when addresses are assigned or re-assigned.

15.08.020 ADDRESSES AND STREET NUMBERS

1. Assigning Address and Street Number. In order to preserve the continuity and uniformity of numbers of buildings, it shall be the duty of the owner or his agent to procure the correct number or numbers for the property. The City shall assign to each principal building located in the City a unique address under the uniform system provided for in Section 15.08.010. No building permit shall be issued for a new structure until the owner or his agent has procured from the City the official number of the premises.

2. In the case of multiple occupancies in a building if the individual occupancy has a separate entry to the exterior of the building, the occupancy shall receive a unique street address number. If the individual occupancies share a common entry and hall way, then the individual occupancies shall share a street address number and be assigned individual apartment, suite or unit numbers or letters.

3. Posting of Street Numbers.

   a. Size and location of numbers. All numbers shall be placed on the front of each building or individual occupancy so as to be easily seen and read from the street or public right-of-way. Numbers posted after the effective date of this Chapter shall be at least four inches in height and be constructed of reflective materials or painted in contrasting colors.

   b. New Building. Whenever any new building or is be erected in the City, the owner or agent shall immediately fasten the number or numbers so assigned upon the building, in the manner as provided in Section 15.08.020.1. All new buildings will either:

      i. Provide lighting above or beside the number on the street side of the building so the number will be visible at night;

      ii. Install a reflective building address sign at the edge of the driveway, street, alley or public right-of-way; or

      iii. If a building number is not visible from the street or public right-of-way, the property owner shall install a reflective building address sign at the edge of the driveway, clearly visible from the public right-of-way.

   c. It shall be the City's duty to examine all new numbers and the location thereof. If, in the judgment of the City, the size and location do not meet with the requirements of this Section, then the property owner or agent therefore shall be notified and shall make such changes as the City shall direct.

4. Change of address. Whenever the City determines that a building has a posted building address that does not comply with this chapter, the City shall notify the property owner, Marion County, utilities, US Postal Service, and emergency service agencies that the address will be changed effective on a date certain.

15.08.30 STREET NAMES

Except for extensions of existing streets, no street name shall be used which will duplicate or be confused with the names of existing streets. Street names shall conform to the established pattern in the city and surrounding area and shall be subject to the approval of the Public Works Director.

1. Street Naming System. There is hereby established a uniform system for the naming of new streets in the City of Stayton. Generally, north/south streets shall be avenues and east/west streets shall be streets. Unless a name also complies with the categories below, names shall not be the common given name of a person. In establishing this system, the City is divided into the following sectors:

   a. North/South Streets east of First Avenue/Cascade Hwy: Streets will be named as numbered avenues beginning at First Avenue. [e.g. First Avenue, Second Avenue, Third Avenue, etc.]

   b. North/South Streets west of First Avenue/Cascade Hwy and south of Shaff Road: Streets will be named as avenues with names of trees in alphabetical order beginning at First Avenue. [e.g. Alder Ave, Birch Ave, Cherry Ave, Douglas Ave, Evergreen Ave, etc.]

   c. Northwest Sector of the City (West of Gardner Avenue, north of Shaff Road and east of Golf Club Road): Streets will be named with names of birds using species native to the Pacific Northwest or Western United States.

   d. Wilco Road Industrial Area: Streets west of Wilco Road will be named for Oregon rivers.

   e. East/West Streets (north of Water Street): Streets north of Water Street will be named as extensions of existing streets or will be named for significant families or individuals in Stayton's history.

2. Renaming Streets. The City shall comply with the requirements of ORS 227.120 when renaming a street.

   a. Upon receipt of a request to rename an existing street, the Planning Commission shall consider the proposal and make a recommendation to the City Council to either approve or reject the request.

   b. Within 60 days of the receipt of the Planning Commission's recommendation, the City Council shall hold a public hearing on any proposal to rename a street. At the conclusion of the hearing, the City Council shall, by ordinance, rename the street or by resolution reject the recommendation. A certified copy of the ordinance shall be filed for record

with the Marion County Clerk, and a copy filed with the county assessor and county surveyor.

15.08.40 ADMINISTRATION

The City Administrator shall designate the City employee to administer this Chapter and assign addresses and street numbers.

15.08.050 ENFORCEMENT

1. It shall be unlawful for any person to alter any building number which conforms to the provisions of this article. It shall also be unlawful knowingly to retain any number which is improper under the rules for numbering buildings set forth herein.

2. If the City finds that a building does not have a building address posted as required by this chapter, the City shall notify the property owner that numbers must be posted. Such number or numbers shall be placed within fifteen (15) days after the City has notified the property owner. The cost of the number or numbers shall be borne entirely by the owner or occupant of any building, except when the City Council has authorized them to be paid for by the City. All such numbers shall conform to the specifications of this Section.

3. If, following the notice in Section 15.08.050.3 above, numbers are not posted in compliance with this Chapter, the City shall cause it to be made and the cost thereof shall be assessed against the property in the manner prescribed for the costs of abating nuisances.

TITLE 15. BUILDINGS AND CONSTRUCTION

CHAPTER 15.10

EXCAVATION AND GRADING

SECTIONS

15.10.040 PURPOSE

The purpose of this chapter is to safeguard life, limb, property and the public welfare by regulating excavation, grading and fill on public and private property.

1. Separate permits, plan reviews and fees shall apply to retaining walls or major drainage structures as required by the Director.

15.10.050 SCOPE

This chapter sets forth rules and regulations to control excavation, grading and earthwork construction, including fills and embankments; establishes the administrative procedure for issuance of permits; provides for approval of plans and inspection of grading construction.

The standards listed below are recognized (see Sections 3502 and 3503 of *1994 Uniform Building Code - Oregon Edition*).

A. Testing

1. ASTM D 1557, Moisture-density Relations of Soils and Soil Aggregate Mixtures
2. ASTM D 1556, In Place Density of Soils by the Sand-Cone Method

3. ASTM D 2167, In Place Density of Soils by the Rubber-Balloon Method
4. ASTM D 2937, In Place Density of Soils by the Drive-Cylinder Method
5. ASTM D 2922 and D 3017, In Place Moisture Contact and Density of Soils by Nuclear Methods

15.10.060 PERMITS REQUIRED

1. Permits Required. Except as specified in section 15.10.060.2 of this section, no property shall be excavated or graded without the owner or authorized representative first having obtained a permit from the Director.

2. Exempt Work. A permit is not required for the following:

a. When approved by the Director, grading in an isolated, self-contained area if there is no hazard to private or public property.

b. An excavation below finish grade for basements and footings of a building, retaining wall or other structure authorized by a valid building permit. This shall not exempt any fill made with the material from such excavation or exempt any excavation having an unsupported height greater than 5 feet after the completion of such structure.

c. Cemetery graves

d. Refuse disposal sites controlled by other regulations.

e. Excavations for wells or tunnels or utilities.

f. Exploratory excavations under the direction of soil engineers or engineering geologists.

g. An excavation which (1) is less than 2 feet in depth, or (2) which does not create a cut slope greater than 5 feet in height and steeper than 1 unit vertical in 1½ units horizontal (66.7% slope).

h. A fill less than 1 foot in depth and placed on natural terrain with a slope flatter than 1 unit vertical in 5 units horizontal (20% slope), or less than 3 feet in depth, not intended to support structures, which does not exceed 50 cubic yards on any one lot and does not obstruct a drainage course.

3. Exemption from the permit requirements of this chapter shall not be deemed to grant authority for any work to be done in any manner in violation of the provisions of this chapter or any other laws or ordinances.

15.10.070 HAZARDS

1. Whenever the Director determines that any existing excavation or embankment or fill on private property has become a hazard to life and limb, or endangers property, or adversely affects the safety, use or stability of a public way, waterway or drainage channel, the owner of the property upon which the excavation or fill is located, or other person or agent in control of said property, upon receipt of written notice from the Director, shall within the period specified therein repair, correct or eliminate such excavation or embankment so as to eliminate the hazard and be in conformance with the requirements of this Chapter.

15.10.080 DEFINITIONS

For the purposes of this chapter the definitions listed hereunder shall be construed as specific in this section.

APPLICANT: shall mean the property owner or authorized representative of site to be excavated or graded.

APPROVAL: shall mean the proposed work or completed work conforms to this chapter in the opinion of the Director

AS-GRADED: is the extent of surface conditions on completion of grading

BEDROCK: is in-place solid rock

BENCH: is a relatively level step excavated into earth material on which fill is to be placed.

BORROW: is earth material acquired from an off-site location for use in grading on site.

BUILDING CODE: includes all current building codes enacted or adopted by the State of Oregon, including the Oregon Structural Specialty Code, the Oregon Mechanical Specialty Code, the Oregon Electrical Specialty Code, the Oregon Plumbing Specialty Code, and the Oregon One & Two-Family Dwelling Specialty Code. (Ord. 874, section 47, 2004)

CITY COUNCIL: is the Stayton City Council as defined in the Stayton Municipal Code.

CIVIL ENGINEER: is a professional engineer registered in Oregon to practice in the field of civil works

CIVIL ENGINEERING: is the application of the knowledge of the forces of nature, principles of mechanics and the properties of materials to the evaluation, design and construction of civil works.

COMPACTION: is the densification of a fill material by mechanical means.

EARTH MATERIAL: is any rock, natural soil or fill or any combination thereof.

ENGINEERING GEOLOGIST: is a geologist experienced in engineering geology.

ENGINEERING GEOLOGY: is the application of geologic knowledge and principles in the investigation and evaluation of naturally occurring rock and soil for use in the design of civil works.

EROSION: is the wearing away of the ground surface as a result of the movement of wind, water, or ice.

EXCAVATION: is the mechanical removal of earth materials.

DIRECTOR: is the City of Stayton Director of Public Works

FILL: is a deposit of earth materials placed by artificial means.

GEOTECHNICAL ENGINEER: See "soils engineer"

GRADE: is the vertical location of the ground surface.

a. Existing Grade is the grade prior to grading

b. Finish Grade is the final grade of the site which conforms to the approved plan.

c. Rough Grade is the stage at which the grade approximately conforms to the approved plan.

GRADING: is any excavation or filling or combination thereof.

HAZARD: is any excavation, embankment or fill which has become a threat to life and limb, or endangers property, or adversely affects the safety, use or stability of a public way, waterway or drainage channel.

KEY: is a designed compacted fill placed in a trench excavated in earth materials beneath the toe of a proposed fill slope.

PERMIT: is the written authorization for excavation and grading as described in this chapter including a "modified" permit for changes or additions to an approved project. "Permittee" is holder of the permit.

PROFESSIONAL INSPECTION: is the inspection required by this Chapter to be performed by the civil engineer, soils engineer, or engineering geologist. Such inspections include that performed by persons supervised by such engineers or geologists and shall be sufficient to form an opinion relating to the conduct of the work.

SITE: is any lot or parcel of land or contiguous combination thereof, under the same ownership, where grading is performed or permitted.

SLOPE: is an inclined ground surface the inclination of which is expressed as a ratio of horizontal distance to vertical distance.

SOIL: is naturally occurring superficial deposits overlying bedrock.

SOILS ENGINEER (Geotechnical Engineer): is an engineer experienced and knowledgeable in the practice of soils engineering (Geotechnical) engineering.

SOILS ENGINEERING (Geotechnical Engineering): is the application of the principles of soils mechanics in the investigation, evaluation and design of civil works involving the use of earth materials and the inspection or testing of the construction thereof.

TERRACE: is a relatively level step constructed in the race of a graded slope surface for drainage and maintenance purposes.

15.10.090 PERMIT REQUIREMENTS

1. Permits Required. Except as exempted in Section 15.10.060 of this chapter, no person shall do any excavation or grading without first obtaining a permit from the Director. A separate permit shall be obtained for each site.

2. Application. To obtain a permit, the applicant shall first file an application therefore in writing on a form furnished by the Director for that purpose. Every such application shall:

    a. Identify and describe the work to be covered by the permit for which application is made.

    b. Describe the land on which the proposed work is to be done by legal description, street address or similar description that will identify and definitely locate the proposed work.

c. Indicate the use or occupancy for which the proposed work is intended.

d. Be accompanied by plans, diagrams, computations and specifications and other data as required by the Director.

e. All required fees paid in full

f. Be signed by the applicant, or the applicant's authorized agent.

3. Grading Designation. Grading in excess of 5,000 cubic yards shall be performed in accordance with the approved grading plan prepared by a civil engineer, and shall be designated as "engineered grading." Grading involving less than 5,000 yards shall be designated "regular grading" unless the permittee chooses to have the grading performed as engineered grading, or the Director determines that special conditions or unusual hazards exist, in which case grading shall conform to the requirements for engineered grading.

4. Engineering Requirements. Application for a permit shall be accompanied by two sets of plans and specifications, and supporting data consisting of a soils engineering report and engineering geology report. The plans and specifications shall be prepared and signed by an individual licensed by the state to prepare such plans or specifications when required by the Director.

a. Specifications shall contain information covering construction and material requirements.

b. Plans shall be drawn to scale upon substantial paper or cloth and shall be of sufficient clarity to indicate the nature and extent of the work proposed and show in detail that they will conform to the provisions of this Chapter and all relevant laws, ordinances, rules and regulations. The first sheet of each set of plans shall give location of the work, the name and address of the owner and the person by whom they were prepared.

c. The plans shall include the following information:

1. General vicinity of the proposed site.

2. Property limits and accurate contours of existing ground and details of terrain and area drainage.

a. Limiting dimensions, elevations or finish contours to be achieved by the grading, and proposed drainage channels and related construction.

b. Detailed plans of all surface and subsurface drainage devices, walls, cribbing, dams and other protective devices to be constructed with, or as a part of, the proposed work together with a map showing the drainage area and the estimated runoff of the area served by any drains.

c. Location of any buildings or structures on the property where the work is to be performed and the location of any buildings or structures on land of adjacent owners which are within 15 feet of the property or which may be affected by the proposed grading operations.

d. Recommendations included in the soils engineering report and the engineering geology report shall be incorporated in the grading plans or specifications. When approved by the Director, specific recommendations contained in the soils engineering report and the engineering geology report, which are applicable to grading, may be included by reference.

e. The dates of the soils engineering and engineering geology reports together with the names, addresses and phone numbers of the firms or individuals who prepared the reports.

f. Details for tree removal including numbers of trees, size and species of trees to be removed pursuant to the requirements of chapter 17.20.970 of this code. (Ord. 798, May 17, 1999)

5. Soils Engineering Report. The soils engineering report required by Section 15.10.090.4 shall include data regarding the nature, distribution and strength of existing soils, conclusions and recommendations for grading procedures and design criteria for corrective measures, including buttress fills, when necessary, and opinion on adequacy for the intended use of sites to be developed by the proposed grading as affected by soils engineering factors, including the stability of slopes.

6. Engineering Geology Report. The engineering geology report required by Section 15.10.090.4 shall include an adequate description of the geology of the site, conclusions and recommendations regarding the effect of geologic conditions on the proposed development, and opinion on the adequacy for the intended use of sites to be developed by the proposed grading, as affected by geologic factors.

7. Liquefaction Study. The Director may require a GEOTECHNICAL investigation when, during the course of an investigation, all of the following conditions are discovered, the report shall address the potential for liquefaction:

a. Shallow ground water, 50 feet or less.

b. Unconsolidated sandy alluvium.

c. Seismic Zones 3 and 4. (Ord. 874, section 48, 2004)

8. Regular Requirements. Each application for a permit shall be accompanied by a plan in sufficient clarity to indicate the nature and extent of the work. The plan shall give the location of the work, the name of the owner and the name of the person who prepared the plan. The plan shall include the following information:

a. General vicinity of the proposed site.

b. Limiting dimensions and depth of cut and fill

c. Location of any buildings or structures where work is to be performed, and the location of any buildings or structures within 15 feet of the proposed grading.

9. Modifications. The Director may require that excavation and grading operations and project designs be modified if delays occur which incur weather-generated problems not considered at the time the permit was issued.

a. The Director may require professional inspection and testing by the soils engineer. When the Director has cause to believe that geologic factors may be involved, the grading will be required to conform to engineering grading. (Ord. 874, section 48, 2004)

15.10.100 PLAN REVIEW, PERMIT & INSPECTION FEES

1. General. Fees shall be prescribed by Resolution of the City Council and assessed in accordance with the provisions of this Section.

2. Plan Review Fees. When a plan or other data are required to be submitted, a plan review fee shall be paid at the time of submitting plans and specifications for review. For excavation and fill on the same site, the fee shall be based on the volume of excavation or fill, whichever is greater.

3. Permit Fees. A fee for each permit shall be paid to the City. There shall be no separate charge for standard terrace drains and similar facilities.

15.10.110 BONDS

The Director may require bonds in such form and amounts as may be deemed necessary to assure that the work, if not completed in accordance with the approved plans and specifications, will be corrected to eliminate hazardous conditions.

1. In lieu of a bond the applicant may deposit cash or file an instrument of credit with the Director in an amount equal to that which would be required in the bond.

15.10.120 CUTS

1. General**.** Unless otherwise recommended in the approved soils engineering or engineering geology report, cuts shall conform to the provisions of this section.

    a. In the absence of an approved soils engineering report, on request of the applicant, these provisions may be waived by the Director for minor cuts not intended to support structures.

2. Slope. The slope of cut surfaces shall be no steeper than is safe for the intended use and shall be no steeper than 1 unit vertical in 2 units horizontal (50% slope) unless the permittee furnishes a soils engineering or an engineering geology report, or both, stating that the site has been investigated and giving an opinion that a cut at a steeper than herein prescribed slope will be stable and not create a hazard to public or private property.

15.10.130 FILLS

1. General. Unless otherwise recommended in the approved soils engineering report, fills shall conform to the provisions of this section and approved by the Director.

    a. In the absence of an approved soils engineering report, on request of the applicant, these provisions may be waived by the Director for minor cuts not intended to support structures.

2. Preparation of Ground. Fill slopes shall not be constructed on natural slopes steeper than 1 unit vertical in 2 units horizontal (50% slope). The ground surface shall be prepared to receive fill by removing vegetation, noncomplying fill, topsoil and other unsuitable materials scarifying to provide a bond with the new fill and, where slopes are steeper than 1 unit vertical in 5 units horizontal (20% slope) and the height is greater than 5 feet, by benching into sound bedrock or other competent material as determined by the soils engineer. The bench under the toe of a fill on a slope steeper than 1 unit vertical in 5 units horizontal (20% slope) shall be at least 10 feet wide. The area beyond the toe of fill shall be sloped for sheet overflow or a paved drain shall be provided. When fill is to be placed over a cut, the bench under the toe of fill

shall be at least 10 feet wide but the cut shall be made before placing the fill and acceptance by the soils engineer or engineering geologist or both as a suitable foundation for fill.

3. Fill Material. Detrimental amounts of organic material deemed so by the Director or designate shall not be permitted in fills. Except as permitted by the Director, no rock or similar irreducible material with a maximum dimension greater than 12 inches shall be buried or placed in fills.

EXCEPTION: The Director may permit placement of larger rock when the soils engineer properly devises a method of placement, and continuously inspects its placement and approves the fill stability. The following conditions shall also apply:

a. Prior to issuance of the grading permit, potential rock disposal areas shall be delineated on the grading plan.

b. Rock sizes greater than 12 inches in maximum dimension shall be 10 feet or more below grade, measured vertically.

c. Rocks shall be placed so as to assure filling of all voids with well-graded soil.

4. Compaction. All fills shall be compacted to a minimum of 90 percent of maximum density of applicable design curve as determined and approved by the Director or City Engineer.

5. Slope. The slope of fill surfaces shall be no steeper than is safe for the intended use. Fill slopes shall be no steeper than 1 unit vertical in 2 units horizontal (50% slope).

15.10.140 SETBACKS

1. General. Cut and fill slopes shall be set back from site boundaries in accordance with this section. Setback dimensions shall be horizontal distances measured perpendicular to the site boundary. Setback dimensions shall be provided by the Director.

2. Top of Cut Slope. The top of cut slopes shall not be made nearer to a site boundary line than one fifth of the vertical height of cut with a minimum of 2 feet and a maximum of 10 feet. The setback may need to be increased for any required interceptor drains.

3. Toe of Fill Slope. The toe of fill slope shall be made not nearer to the site boundary line than one half the height of the slope with a minimum of 2 feet and a maximum of 20 feet. Where a fill slope is to be located near the site boundary and the adjacent off-site property is developed, special precautions shall be incorporated in the work

as the Director deems necessary to protect the adjoining property from damage as a result of such grading. These precautions may include but are not limited to:

a. Additional setbacks.
b. Provision for retaining or slough walls.
c. Mechanical or chemical treatment of the fill slope surface to minimize erosion.
d. Provisions for the control of surface waters.

4. Modification of Slope Location. The Director may approve alternate setbacks. The Director may require an investigation and recommendation by a qualified engineer or engineering geologist to demonstrate that the intent of this section has been satisfied.

15.10.150 DRAINAGE AND TERRACING

1. General. Unless otherwise indicated on the approved grading plan, drainage facilities and terracing shall conform to the provisions of this section for cut or fill slopes steeper than 1 unit vertical in 3 units horizontal (33.3% slope).

2. Terrace. Terraces at least 6 feet in width shall be established at not more than 30-foot vertical intervals on all cut or fill slopes to control surface drainage and debris except that where only one terrace is required, it shall be at mid height. For cut or fill slopes greater than 60 feet and up to 120 feet in vertical height, one terrace at approximately mid height shall be 12 feet in width. Terrace widths and spacing for cut and fill slopes greater than 120 feet in height shall be designed by the civil engineer and approved by the Director. Suitable access shall be provided to permit proper cleaning and maintenance.

   a. Swales or ditches on terraces shall have a minimum gradient of 5 percent and must be paved with reinforced concrete not less than 4 inches in thickness or an approved equal paving. They shall have a minimum depth at the deepest point of 1 foot and a minimum paved width of 5 feet.

   b. A single run of swale or ditch shall not collect runoff from a tributary area exceeding 13,500 square feet (projected) without discharging into a down drain.

3. Subsurface Drainage. Cut and fill slopes shall be provided with subsurface drainage as necessary for stability.

4. Disposal. All drainage facilities shall be designed to carry waters to the nearest practicable drainage way approved by the Director or other appropriate jurisdiction as designated by the Director as a safe place to deposit such waters. Erosion of

ground in the area of discharge shall be prevented by installation of nonerosive down drains or other approved devices.

a. Building pads shall have a drainage gradient of 2 percent toward approved drainage facilities, unless waived by the Director.

EXCEPTION: The gradient from the building pad may be 1 percent if all of the following conditions exist throughout the permit area:

a. No proposed fills are greater than 10 feet in maximum depth.
b. No proposed finish cut or fill slope faces have a vertical height in excess of 10 feet.
c. No existing slope faces, which have a slope face steeper than 1 unit vertical in 10 units horizontal (10% slope), have a vertical height in excess of 10 feet.

5. Interceptor Drains. Paved interceptor drains shall be installed along the top of all cut slopes where the tributary drainage area above slopes toward the cut and has a drainage path greater than 40 feet measured horizontally. Interceptor drains shall be paved with a minimum of 4 inches of concrete or granite and reinforced. They shall have a minimum depth of 12 inches and a minimum paved width of 30 inches measured horizontally across the drain. The slope of drain shall be approved by the Director.

15.10.160 EROSION CONTROL

1. Slopes. The faces of cut and fill slopes shall be prepared and maintained to control against erosion. The control may consist of effective planting. The protection for the slopes shall be installed as soon as practicable and prior to calling for final approval. Where cut slopes are not subject to erosion due to the erosion-resistant character of the materials, such protection may be omitted.

2. Other Devices. Where necessary, check dams, cribbing, riprap or other devices or methods shall be employed to control erosion and provide safety.

15.10.170 INSPECTION

1. General. Grading operations for which a permit is required shall be subject to inspection by the Director. Professional inspection of grading operations shall be provided by the civil engineer, soils engineer and the engineering geologist retained to provide such services in accordance with Section 15.10.170.5 for engineered grading and as required by the Director for regular grading.

2. Civil Engineer. The civil engineer shall provide professional inspection within such engineer's area of technical specialty, which shall consist of observation and review

as to the establishment of line, grade and surface drainage of the development area. If revised plans are required during the course of the work they shall be prepared by the civil engineer.

3. Soils Engineer. The soils engineer shall provide professional inspection within such engineer's area of technical specialty, which shall include observation during grading and testing for required compaction. The soils engineer shall provide sufficient observation during the preparation of the natural ground and placement and compaction of the fill to verify that such work is being performed in accordance with the conditions of the approved plan and the appropriate requirements of this chapter. Revised recommendations relating to conditions differing from the approved soils engineering and engineering geology reports shall be submitted to the permittee, the Director for review and action.

4. Engineering Geologist. The engineering geologist shall provide professional inspection within such engineer's area of technical specialty, which shall include professional inspection of the bedrock excavation to determine if conditions encountered are in conformance with the approved report. Revised recommendations relating to conditions differing from the approved engineering geology report shall be submitted to the Director for review and action.

5. Permittee. The permittee shall be responsible for the work to be performed in accordance with the approved plans and specifications and in conformance with the provisions of this Chapter, and the permittee shall engage consultants, if required, to provide professional inspections on a timely basis. The permittee shall act as a coordinator between the consultants, the contractor and the Director. In the event of changed conditions, the permittee shall be responsible for informing the Director of such change and shall provide revised plans for review and action.

6. Director. The Director or designate shall inspect the project at the various stages of work requiring approval to determine that adequate control is being exercised by the professional consultants.

7. Notification of Noncompliance. If, in the course of fulfilling their respective duties under this chapter, the civil engineer, the soils engineering or the engineering geologist finds that the work is not being done in conformance with this chapter or the approved grading plans, the discrepancies shall be reported immediately in writing to the permittee and to the Director.

8. Transfer of Responsibility. If the civil engineer, the soils engineer, or the engineering geologist of record is changed during project, the work shall be stopped until the replacement has agreed in writing to accept their responsibility within the area of technical competence for approval upon completion of the permitted project.

It shall be the duty of the permittee to notify the Director in writing of such change prior to the recommencement of the permitted work.

15.10.180 COMPLETION OF WORK

1. Final Reports. Upon completion of the rough grading work and at the final completion of the permitted work, the following reports and drawings and supplements thereto are required for engineered grading or when professional inspection is performed for regular grading, as applicable.

   a. An as-built grading plan prepared by the civil engineer retained to provide such services in accordance with Section 15.10.170.5 showing original ground surface elevations, as-graded ground surface elevations, lot drainage patters, and the locations and elevations of surface drainage facilities and of the outlets of subsurface drains. As-constructed locations, elevations and details of subsurface drains shall be shown as reported by the soils engineer.

   b. Civil engineers shall state that to the best of their knowledge the work within their area of responsibilities was done in accordance with the final approved plan.

   c. A report prepared by the soils engineer retained to provide such services in accordance with Section 15.10.170.3, including locations and elevations of field density tests, summaries of field and laboratory tests, other substantiating data, and comments on any changes made during the permitted work and their effect on the recommendations made in the approved soils engineering investigation report. Soils engineers shall submit a statement that, to the best of their knowledge, the work within their area of responsibilities is in accordance with the approved soils engineering report and applicable provisions of this chapter.

   d. A report prepared by the engineering geologist retained to provide such services in accordance with Section 15.10.170.5, including a final description of the geology of the site and any new information disclosed during the permitted work and the effect of same on recommendations incorporated in the approved plan. Engineering geologists shall submit a statement that, to the best of their knowledge, the work within their area of responsibility is in accordance with the approved engineering geologist report and applicable provisions of this chapter.

   e. The grading contractor shall submit in a form prescribed by the Director a statement of conformance to said as-built plan and the specifications.

2. Notification of Completion. The permittee shall notify the Director when the permitted work operation is ready for final inspection. Final approval shall not be given until all work, including installation of all drainage facilities and their protective devices, and all erosion-control measures have been completed in accordance with the final approved plan, and the required reports have been submitted. (Ord. 778, Feb. 2, 1998)

TITLE 15. BUILDINGS AND CONSTRUCTION

CHAPTER 15.12

NON-RESIDENTIAL PROPERTY MAINTENANCE

SECTIONS

15.12.010 PURPOSE

This Chapter is intended to protect the City of Stayton from blight, deterioration, and decay as a result of properties in a condition or state that potentially would have an adverse effect on the value, utility, and habitability of property within the City (Ord. 1036, September 16, 2019). Such properties may:

1. Pose hazards to the public health, safety and welfare.
2. Cause potential damage to adjoining and nearby properties. A property which is merely unkempt or vacant for long periods may reduce the value of adjoining and nearby property, and the habitability and economic well-being of the City may be materially and adversely affected.
3. Be a cause and source of blight in both residential and non-residential neighborhoods, especially when the person in charge of the building fails to actively maintain and manage the building to ensure that it does not become a liability to the neighborhood.
4. Discourage economic development and retard appreciation of property values.
5. Serve as a potential fire hazard and can jeopardize the ability of owners of neighboring property from securing or maintaining affordable fire insurance.
6. Potentially cause increased need for police protection due to misuse of the property by persons not having permission or right to use the property.
7. Be the core and cause of spreading blight.

It is the responsibility of property ownership to prevent owned property from becoming a burden to the neighborhood and community and a threat to the public health, safety, or welfare. It is also in the community's best interest not to lose unique buildings, and in the best interest of the owner to maintain their investment.

15.12.020 SCOPE OF REGULATIONS

The regulations included in this Chapter shall be in effect and control the use of property used for business and mixed business/residential purposes and public places only within the City (Ord. 1036, September 16, 2019).

15.12.030 PROPERTY TO BE KEPT FREE FROM DEBRIS

The exterior of any non-residential property shall be kept free of debris, trash, building materials, or the storage of other goods. The building exterior and/or property shall be kept free of any accumulation of newspapers, circulars or flyers, graffiti, discarded items including but not limited to cigarette butts, scrap paper, food or beverage containers, furniture, clothing, and appliances.

15.12.040 WEEDS AND PLANTS TO BE CONTROLLED

Plant material shall be cut down or destroyed between the building façade and the street unless planted in a container or tree well by the building owner, occupant, or City. Plant material shall be removed between buildings, and in alleyways. Planted materials in landscape beds and planters shall be maintained to keep them healthy and weed free (Ord. 1036, September 16, 2019).

15.12.050 MAINTENANCE OF AWNINGS

1. Awnings shall not be torn, frayed, ripped, faded, or stained, soiled, or dirty.
2. If an awning cover is removed, the building owner shall remove the frame and any supports for the awning.

(Ord. 1036, September 16, 2019)

15.12.055 ILLUMINATION OF BUILDINGS

The purpose of this section is to provide uniformity of lighting of building exterior and interior retail areas in the downtown area in order to provide an inviting atmosphere within the pedestrian oriented portion of the City.

1. Buildings along N. Third Avenue, between E. Water Street and E. Burnett Street shall provide illumination visible from the exterior of the building. Illumination shall be provided by:
    a. Light fixtures on or in an awning or canopy overhanging the sidewalk;
    b. Light fixtures attached to the exterior of the building;
    c. Lights attached around the perimeter of a window frame; or

d. Interior lighting within a window.

2. Lighting shall be white light, a minimum of 1,000 lumens, with a temperature rating of 5,000K or less.

3. Illumination shall be provided between dusk and 11:00 p.m.

(Ord. 1036, September 16, 2019)

15.12.060 ENFORCEMENT

The Ordinance Enforcement Officer shall enforce the standards of this Chapter, with or without a complaint being filed, when apparent violations are visible from a public street or property with public access.

1. Investigations. Once a violation has been identified, the Ordinance Enforcement Officer will issue a written determination of violation.

2. Determination of Violation. When the Ordinance Enforcement Officer has determined that a violation of this Chapter exists, the Ordinance Enforcement Officer shall issue a written determination of violation to the property owner with an order to abate the violation. The written determination shall be mailed by first class mail to the owner at the address of record in the Marion County Assessor's records and shall include the following:

    a. Street address.

    b. A statement that the Ordinance Enforcement Officer has found the building or premises to be in violation of this Chapter.

    c. A thorough description of the violation.

    d. Statements advising the owner that if the required repairs or corrective actions are not completed within thirty days, the Ordinance Enforcement Officer will issue a Notice of Violation and Order of Abatement.

    e. Statements that issuance of a Notice of Violation and Order of Abatement may result in:

        i. Recording of the Notice and Order against the property.

        ii. Issuance of a citation to the owner to appear in Stayton Municipal Court.

        iii. Initiation of action to recover all City costs associated with the processing of the complaint, investigation, and the resolution of the matter.

    f. The date by which the repairs or corrective actions must be completed and a re-inspection scheduled.

3. Notice of Violation and Order of Abatement. If there is not compliance with the determination of violation and order by the date specified in the written determination, the Ordinance Enforcement Officer shall issue a Notice of Violation and Order of Abatement to the property owner. The Notice and Order shall be served upon the owner by certified mail, at the address of record in the Marion County Assessor's records and shall include the following:

    a. Street address.

    b. A statement that the Ordinance Enforcement Officer has found the building or premises to be in violation of this Chapter.

    c. A thorough description of the violation.

    d. Statements advising the owner that if required repairs or corrective actions are not completed within thirty-days, plus three days for mailing from the date of the Notice and Order, the Ordinance Enforcement Officer shall:

        i. Record the Notice and Order against the property.

        ii. Coordinate the issuance of a citation to the owner to appear in Stayton Municipal Court.

        iii. Initiate action to recover all City costs associated with the processing of the complaint, investigation and the resolution of the matter.

    e. Statements that the owner may appeal the Notice and Order as specified in this Chapter.

    f. The date by which the repairs or corrective actions must be completed and a re-inspection scheduled.

4. Failure to Comply. If there is not compliance with the Notice of Violation and Order by the specified date, the Ordinance Enforcement Officer shall:

    a. Coordinate the issuance of a citation to the owner to appear in Stayton Municipal Court;

    b. Record the Notice and Order against the property with all recording costs to be the responsibility of the owner; and,

    c. Initiate an accounting for all costs associated with the processing of the complaint investigation and the resolution of the matter with the intent and purpose of recovering these costs from the owner. A lien shall be placed on the subject property.

5. Compliance

    a. Upon compliance with the Order of Abatement, the Ordinance Enforcement Officer will issue a Notice of Compliance to the owner.

    b. If a Notice and Order was recorded against the property, the City Manager will record the Notice of Compliance against the property.

    c. If an accounting was initiated for all costs associated with the processing of the complaint, investigation and the resolution of the matter, the Finance Director will proceed with collecting these costs from the owner using adopted City procedures, including lien foreclosure.

6. Penalties. Any person violating any of the provisions of this Chapter shall, upon court conviction thereof, be punished by a fine as specified by Council Resolution. Each day that a violation remains unrectified after notification is a separate offense.

15.12.070 APPEALS

1. Appeal to City Manager. Any owner who has been issued a Notice of Violation by the Ordinance Enforcement Officer may file a written appeal to the City Manager within 10 business days of the date the Notice of Violation was mailed.
2. The City Manager shall consider the appeal within 15 business days from the date of the City's receipt of the appeal. The City Manager may, at the City Manager's sole discretion:

    a. Remand the matter back to the Ordinance Enforcement Officer for reconsideration;

    b. Grant the request on appeal, with or without conditions; or

    c. Deny the request on appeal.

3. The City Manager shall issue a written Notice of Decision regarding the Appeal. The City Manager's decision is final.

CHAPTER 17.04
GENERAL PROVISIONS

Adopted Ord 894, January 2, 2007
Amended Ord. 898, August 20, 2007
Amended Ord. 901, April 16, 2008
Amended Ord. 902, May 7, 2008
Amended Ord. 904, June 16, 2008
Amended Ord. 907, January 14, 2009
Amended Ord. 908, May 6, 2009
Amended Ord. 909, May 20, 2009
Amended Ord. 913, September 2, 2009
Amended Ord. 920, May 3, 2010
Amended Ord. 944, March 5, 2012
Amended Ord. 985, September 16, 2015
Amended Ord. 998, August 31, 2016
Amended Ord. 1010, October 20, 2017
Amended Ord. 1029, May 1, 2019

CHAPTER 17.04

GENERAL PROVISIONS

SECTIONS

17.04.010 SHORT TITLE

The provisions of Sections 17.04.010 through 17.26.060 shall be known as the "Stayton Land Use and Development Code."

17.04.020 PURPOSE OF LAND USE AND DEVELOPMENT CODE

This code is adopted for the purpose of promoting the health, safety, peace, comfort, convenience, economic well being, and general welfare of the City of Stayton, including but not limited to fulfilling the following objectives:

1. Establishment of uniform interpretations, terms, and definitions, and authorities for the application of land use and development regulations.
2. Implement the policies of the City Comprehensive Plan, its urban growth boundary, and procedures for amendments to the same.
3. Establishment of application, review, hearings, decision-making, and appeal procedures for consideration of land use and development requests, and the establishment of application fees and penalties for noncompliance with regulations.

17.04.030 ADMINISTRATION

The City Administrator or other official(s) designated as the building and planning officials by the administrator shall have the power and duty to enforce the provisions of this code.

17.04.040 INTERPRETATIONS

1. In the interpretation and application of this code, all provisions shall be:
   a. Considered as minimum requirements.
   b. Liberally construed in favor of the governing body.
   c. Deemed neither to limit nor to repeal any other powers granted under state statutes.
2. When, in the administration of the provisions of this code, there is substantial doubt regarding the intent or meaning of the code, the City Planner may request an interpretation of the provisions by the Planning Commission, which shall issue an interpretation of the question if the Commission has determined that such interpretation is within its power and is an administrative and not a legislative act. Any interpretation of the code shall be based on the following considerations:
   a. The purpose and intent of the code as expressed within the particular section being questioned.
   b. Guidance provided by the City's Comprehensive Plan and related materials.
   c. The opinion of the City Attorney when requested by the Planning Commission.

17.04.050 RESTRICTIVENESS

The provisions of this code shall be liberally construed to affect the purpose of the ordinance. These provisions are declared to be the minimum requirements necessary to accomplish these purposes, and

where conditions herein imposed are less restrictive than comparative restrictions imposed by any other provision of this code, by provision of any other City of Stayton or State of Oregon ordinance, resolution, or regulations then the more restrictive shall govern.

17.04.060 SEVERABILITY

If any section, paragraph, subsection, clause, sentence, or provision of this code shall be adjusted by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect, impair, invalidate, or nullify the remainder of the code, and the effect thereof shall be confined to the section, paragraph, subsection, clause, sentence, or provision immediately involved in the controversy in which such judgment or decree shall be rendered, it being the intent of the City to enact the remainder of this code notwithstanding the parts so declared unconstitutional or invalid. Further, should any section, paragraph, subsection, clause, sentence, or provision of this code be judicially declared unreasonable or inapplicable to a particular premises or to a particular use at any particular location, such declaration or judgment shall not affect, impair, invalidate, or nullify such section, paragraph, subsection, clause, sentence, or provision as to any other premises or use.

17.04.070 COMPLIANCE

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of the Stayton Land Use and Development Code and other applicable regulations including all permits and licenses required.

17.04.080 ABROGATION AND GREATER RESTRICTIONS

The provisions of this code are not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions; however, where this code and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

17.04.090 GRAMMATICAL INTERPRETATION

Words used in the masculine include the feminine, and the feminine the masculine. Words used in the present tense include the future, the singular number includes the plural, and the word "shall" is mandatory and not directory. Where terms or words are not defined, they shall have their ordinary accepted meanings within the context of their use. The contemporary edition of the American Heritage Dictionary of the English Language, Fourth Edition copyright 2000 shall be considered as providing accepted meanings. The North American Industrial Classification System, 2002 shall be used to determine the meaning and classification of a commercial or industrial land use that is not particularly defined in this Code.

17.04.100 DEFINITIONS

The following definitions shall be used for the purposes of this code.

ABUTTING: Contiguous or adjoining. It shall include the terms adjacent, adjoining and contiguous.

ACCESS CONNECTION: Any driveway, street, turnout or other means of providing for the movement of vehicles to or from the public roadway system.

ACCESS MANAGEMENT: The process of providing and managing access to land development while preserving the regional flow of traffic in terms of safety, capacity, and speed.

ACCESSORY BUILDING: A building that is incidental and subordinate to the main building. (Amended Ord. 1010, October 20, 2017)

ACCESSORY, MOBILE HOME: Any structural addition to a manufactured or mobile home including awnings, carports, cabanas, porches, ramadas, storage buildings, and similar structures.

ACCESSORY USE: A subordinate or incidental use of a lot or building.

AFFECTED AREA: Unless otherwise specified, this shall include all property within 300 feet of the proposed project location.

AGGRIEVED PERSON OR PARTY: An owner of land whose property is directly or indirectly affected by the granting or denial of an application under this Title; a person whose land abuts land for which an application has been granted; or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such application. Owners or persons are precluded from appeals of decisions unless they participates in the decision-maker's proceedings. (Ord. 898, August 20, 2007)

ALLEY: A public way or thoroughfare not more than 20 feet but not less than 10 feet in width which has been dedicated or deeded to the public for public use providing a secondary means of access to property, except in a downtown zone, where it may be the primary means of vehicular access. (Amended Ord. 902, May 7, 2008)

ALTERATION, STRUCTURAL: Any change or repair which should affect or materially change a supporting member of a building such as a bearing wall, column, beam, or girder.

ANTENNA: One or more rods, panels, discs, or similar devices, and their ancillary structures used for the transmission and/or reception of electromagnetic waves for radio, television, and similar uses, but not including antennas as part of wireless communication facilities.

APARTMENT: A dwelling unit within a multi-family development.

APPEAL: A request for a review of the decision authority's action on an application or interpretation of any provision of this code.

APPLICANT: The owner or record or contract purchaser.

APPLICANT'S REPRESENTATIVE: A person or persons with written legal authorization from the applicant to speak and act on behalf of the applicant.

AREA OF SHALLOW FLOODING: A designated AO or AH zone on the "Flood Insurance Rate Map" (FIRM). The base flood depths range from 1 to 3 feet, a clearly defined channel does not exist, the path of flooding is unpredictable and indeterminate, and velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.

AREA OF SPECIAL FLOOD HAZARD: The land in the flood plain within a community subject to a 1% or greater chance of flooding in any given year. Designation on floodplain maps always includes the letters "A" or "V."

ATTACHED RESIDENTIAL STRUCTURE: A single family attached dwelling, multiple family dwelling, duplex or triplex. (Added Ord. 902, May 7, 2008)

AUTOMOTIVE WRECKING YARD: An establishment engaged in the business of purchasing or acquiring salvage vehicles for the purpose of: reselling the vehicle or its component parts; rebuilding or repairing the vehicle for the purpose of resale; selling the vehicle's basic materials; displaying or storing the vehicle or its parts; or acting as a scrap processor. (Added Ord. 913, September 2, 2009)

AWNING: Any stationary structure attached to a building, other than window awnings, for the purpose of providing shelter from the sun and rain and having a roof with supports.

AWNING SIGN: Any sign that is part of or attached to an awning or canopy. (Added Ord. 902, May 7, 2008)

BALLOON: Balloons include but are not limited to helium balloons, forced air filled balloons, or any other similar device.

BASE FLOOD: The flood having a 1% chance of being equaled or exceeded in any given year. Also referred to as the "100-year flood." Designation on maps always includes the letters "A" or "V."

BASEMENT: A space wholly or partly underground and having more than ½ of its height, measured from its floor to its ceiling, below the average adjoining finished grade. As used in Section 17.16.100 for floodplain management purposes, a basement is any area of a building having its floor below ground level on all sides. (Ord. 898, August 20, 2007)

BED AND BREAKFAST: An accessory use to a single-family dwelling in which no more than 5 sleeping rooms are provided for the use of travelers or transients on a daily or weekly period**.** Occupancy by any one visitor is not to exceed 29 consecutive days. Provision of a morning meal is customary by definition.

BICYCLE: A vehicle designed to operate on the ground on wheels, propelled solely by human power, upon which any person or persons may ride, and with 2 tandem wheels at least 14 inches in diameter. An adult tricycle is considered a bicycle.

BICYCLE FACILITIES: A general term denoting improvements and provisions made to accommodate or encourage bicycling, including parking facilities and all bikeways.

BIKEWAY: Any road, path, or way that is some manner specifically open to bicycle travel, regardless of whether such facilities are designated for the exclusive use of bicycles or are shared with other transportation modes. The four types of bikeways are:

1. **TRAILS**: See trails definition.
2. **BIKE LANE**: A 6-foot wide portion of the roadway that has been designated by permanent striping and pavement markings for the exclusive use of bicycles.
3. **SHARED BIKEWAY**: The paved shoulder of a roadway that is 4 feet or wider; typically shared by bicyclists and pedestrians in rural areas.
4. **SHARED ROADWAY**: A travel lane that is shared by bicyclists and motor vehicles.

BLOCK: A parcel of land bounded by 3 or more streets.

BUILDING: A structure with a roof supported by columns or walls**,** built for the support, shelter, or enclosure of persons, animals, or property of any kind.

BUILDING, COMMUNITY: A building for civic, social, educational, cultural, and recreational activities of a neighborhood or community group or association and not operated primarily for gain.

BUILDING FRONTAGE: The portion of a building face most closely in alignment with an adjacent right-of-way or fronting a parking lot. A gasoline service station may use the longer side of the canopy over the pumps as a substitute for building frontage when computing the allowable sign area.

BUILDING HEIGHT: The vertical distance measured between the average level of the finished ground surface adjacent to the building and the uppermost point of the building, excluding only those features which may exceed the district height limits.

BUILDING, MAIN: A building in which is conducted a principal or main use of the main building site on which it is situated.

BUILDING OFFICIAL: The person(s) empowered by the City Council to administer and enforce this code and building**,** plumbing, electrical, and other similar codes.

BUILDING SITE: A parcel of land occupied or to be occupied by a building or groups of buildings that complies with all the requirements of this title relating to building sites.

CAMPGROUND: Premises under one ownership where persons camp or live in any manner other than in a permanent building.

CANOPY SIGN: A sign hanging from a canopy or eaves at any angle relative to the adjacent wall, the lowest portion of which is at least eight feet above the underlying grade.

CAR PORT: A structure that is entirely open on 2 or more sides and is used for the parking of motor vehicles.

CEMETERY: Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including a columbarium, crematory, mausoleum, or mortuary when operated in conjunction with and within the boundary of such cemetery.

CHANGE OF USE: The conversion of a use from one use classification to another

CITY ADMINISTRATOR: That official of the City hired or appointed by the City Council to serve at the pleasure of the City Council as chief administrative officer of the City or his designee.

CITY ATTORNEY: A licensed attorney hired or appointed by the City Council to provide legal advice and assistance to the City Council, the Planning Commission, and City officials.

CITY PLANNER: A qualified planner hired or appointed by the City Administrator to provide land use planning and other related information to the Planning Commission and City Council.

CODE: As used herein, the "Stayton Land Use and Development Code." Distinguished from "Stayton Code," which is the entire City code including the "Land Use and Development Code."

COLLOCATION: Placement of a wireless communication facility antenna on an existing transmission tower, building, light or utility pole, or water tower where the antenna and all supports are located on the existing structure.

COLOR RENDERING INDEX: The measure of how a light changes perception of colors. Incandescent lamps have a CRI of 100, metal halide 70-75, mercury vapor 50, high pressure sodium 22 and low pressure sodium 44. (Added Ord. 909, May 20, 2009)

COMMON OPEN SPACE: An area, feature, or outdoor facility within a development designed and intended for the use or enjoyment of all occupants of the development or the general public.

COMMON WALL CONSTRUCTION: The use of zero lot line(s) where structures join one another.

COMMUNITY SERVICE BUILDING: A building of less than 250 square feet in gross floor area that is used as a pump station for sewer or water service, switching or other facilities for telecommunications or other utility purposes. (Added Ord. 902, May 7, 2008)

COMPREHENSIVE PLAN: The long-range plan, maps, and elements of the plan, adopted by the City Council, intended for guidance in the development of the community.

CONCEALMENT TECHNOLOGY: The use of both existing and future technology through which a wireless communications facility is designed to resemble an object which is not a wireless communications facility and which is already present in the natural environment.

CONCRETE STONE: Cored Portland cement and basalt aggregate building blocks locally manufactured between 1908 and 1925.

CONFORMING: In compliance with the applicable regulations of this code.

CONSTRUCTION PLANS: A collection of engineered design drawings that provide clear direction for construction of a project along with project-specific construction notes and specification references plus relevant standard details.

CONTRACT ANNEXATION: The addition of territory to the jurisdictional boundaries of the City that is subject to the terms and conditions of a contractual agreement between the property owner and the City relative to the nature of development to occur in the territory and the timing or sequence of annexation or annexation of portions of the property. (Added by Ord. 901, April 16, 2008)

CONVENIENCE STORE: A store of less than 1,500 square feet of gross floor area intended to serve the convenience of the traveling public with such items as, but not limited to: basic foods, periodicals, auto supplies or other small travel supplies.

CORNICE: The projecting moldings forming the top bank of a wall or other element.

CROSS ACCESS: A service drive providing vehicular access between 2 or more contiguous sites so the driver need not enter the public street system.

CURB LINE: The line indicating the edge of the vehicular roadway within the overall right-of-way.

CUT-OFF FIXTURE: An outside lighting fixture that is designed to minimize the amount of light which is not directed towards the ground. In order to be considered a cut-off fixture, a minimum of 90% of the total lamp lumens must be directed below 80° from vertical and no more than 2.5% of the total lamp lumens may be allowed above a horizontal line from the bottom of the fixture. A cut-off fixture may be either a pole-mounted or wall-mounted fixture.

DAY CARE FACILITY: Any facility other than a family child care center that provides day care to children. This term applies to the total day care operation. It includes the physical setting, equipment, staff, provider, program, and care of children. See ORS 657A for certification requirements.

DE NOVO: A new hearing where testimony and evidence is received on all aspects of the matter at hand.

DECISION AUTHORITY: A person or group of persons given authority by this code to review, make decisions upon, and establish conditions to those specific applications or interpretations identified within this code.

DENSITY: The number of dwelling units or mobile home spaces per gross acre.

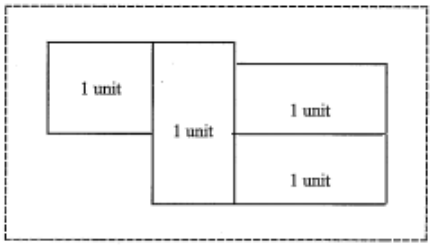
DEVELOPMENT: Human activity physically affecting land or resources, including**,** but not limited to**:** the division of parcels**,** construction, installation or change of structures**,** grading, landfill, or excavation of land; storage of equipment or materials; drilling or substantial site alteration due to dredging, or paving, and planned selective removal of trees and vegetation.

DRIVE THROUGH FACILITIES: Any business with facilities designed for serving customers at a drive-through window while they are in their vehicles.

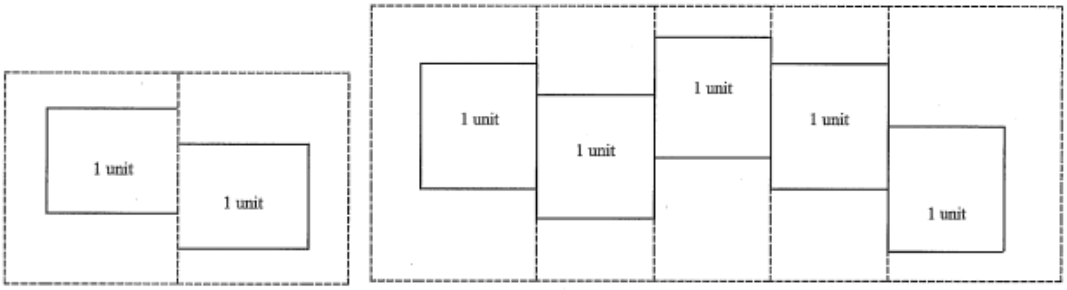
DRIVEWAY: A minor private way used by vehicles and pedestrians to gain access from an approved public access or right-of-way onto a lot or parcel of land.

DWELLING UNIT: Any building, or any portion thereof, that contains 1 or more habitable rooms which are occupied or intended to be occupied by 1 family with facilities for living, sleeping, sanitation, cooking, and eating.

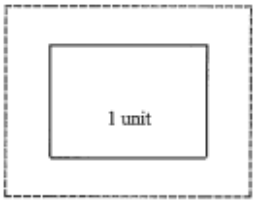
DWELLING, MULTIPLE FAMILY: A building, located on a single lot or portion thereof designed for occupancy by 4 or more families living independently of each other. (Amended Ord. 902, May 7, 2008)



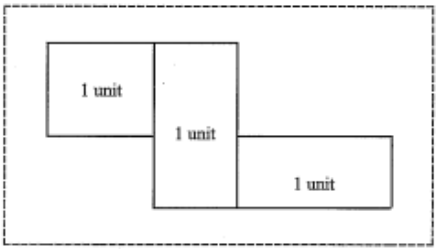
DWELLING, SINGLE FAMILY ATTACHED: A building containing two or more dwelling units, with each dwelling unit on a separate lot, but sharing common walls. (Added Ord. 902, May 7, 2008)



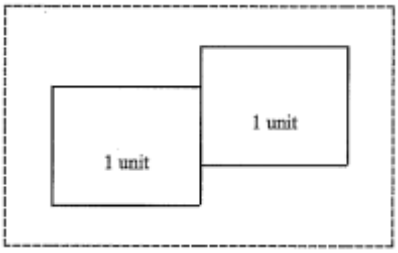
DWELLING, SINGLE FAMILY DETACHED: A detached building designed exclusively for occupancy by 1 family. (Amended Ord. 902, May 7, 2008)



DWELLING, THREE-FAMILY (TRIPLEX): A building designed exclusively for occupancy by 3 families living independently of each other with all dwelling units located on a single lot. (Added Ord. 902, May 7, 2008)



DWELLING, TWO-FAMILY (DUPLEX): A building designed exclusively for occupancy by 2 families living independently of each other with both dwelling units located on a single lot. (Amended Ord. 902, May 7, 2008)



EASEMENT: The grant of a right of use over, across, or through a parcel or strip of land for specific purposes. Does not include privately owned roadways serving buildings within a single lot.

ELEVATED BUILDING: For insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

EXPANDO: A room or rooms that fold, collapse, or telescope into a mobile home during the transport and which can be expanded at the site to provide additional living space.

FACADE: Any exterior face of a building.

FAMILY: An individual or 2 or more persons related by blood, marriage, legal adoption, or legal guardianship, or a group of not more than 5 persons (excluding servants) not so related, living together in a dwelling unit as a housekeeping unit.

FAMILY CHILD CARE CENTER: Facilities that provide care and supervision for not more than 12 children in the operator's home. See ORS 657A for certification requirements.

FARMING: The use of land for raising and harvesting crops or for feeding, breeding, and managing livestock, or for dairying, or for any other agricultural or horticultural use, or for a combination thereof, excluding feedlots. It includes the disposal, by marketing or otherwise, of products raised on the premises. It further includes the construction and use of dwellings and other buildings customarily provided in conjunction with a farm use.

FENCE: An artificially constructed barrier of any material or combination of materials used to enclose, screen or separate areas.

FINISH GROUND LEVEL: The average elevation of the ground (excluding mounds or berms, etc., located only in the immediate area of the sign) adjoining the structure or building upon which the sign is erected, or the curb height of the closest street, whichever is the lowest.

FLASHING SIGN: A sign, any part of which pulsates or blinks on and off, except time and temperature signs and message signs allowed by conditional use.

FLOOD OR FLOODING: A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland waters
2. The unusual and rapid accumulation of runoff of surface waters from any source.

FLOOD INSURANCE RATE MAP (FIRM): The official map on which the Federal Emergency Management Administration (FEMA) has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY: The official report provided by the Federal Emergency Management Administration (FEMA) that includes flood profiles, and the water surface elevation of the base flood.

FLOODPLAIN: Areas shown on the Flood Insurance Rate Map as areas of special flood hazard.

FLOODWAY: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than 1 foot.

FLOOR AREA, GROSS: The sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a structure such as porches and decks. (Added Ord. 902, May 7, 2008)

FLOOR AREA RATIO: The ratio of gross floor area within main buildings on a lot to the land area of the lot. (Added Ord. 902, May 7, 2008)

FREE-STANDING SIGN: A sign supported by one or more upright, pole, or brace placed in or upon the ground; or a sign supported by any structure primarily for the display and support of the sign. Monument signs are one type of free-standing signs.

FRONTAGE: The horizontal distance as measured in a straight line from the intersection of the side lot lines with the front lot lines.

FRONTAGE ROAD: A public or private drive which generally parallels a public street between the right-of-way and the front building setback line. The frontage road provides access to private properties while separating them from the arterial street.

FUNCTIONAL AREA (INTERSECTION): That area beyond the physical intersection of 2 roads that comprises decision and maneuver distance, plus any required vehicle storage length.

FUNCTIONAL CLASSIFICATION: A system used to group public roadways into classes according to their purpose in moving vehicles and providing access.

GARAGE, PRIVATE: A detached accessory building or portion of a main building for the parking or temporary storage of automobiles in which no business, occupation, or service is provided for or conducted except as a home occupation.

GENERAL AUTOMOTIVE REPAIR: Establishments primarily engaged in providing (1) a wide range of mechanical and electrical repair and maintenance services or (2) engine repair and

replacement for automotive vehicles, such as passenger cars, and light duty trucks and vans, and all trailers. (Added Ord. 907, January 14, 2009)

GROUP CARE HOME: Any home or institution maintained and operated for the care, boarding, housing, or training of 6 or more physically, mentally, or socially handicapped persons or delinquent or dependent persons by any person who is not the parent or guardian of and who is not related by blood, marriage, or legal adoption to such person.

HABITABLE FLOOR: Any floor usable for living purposes which includes working, sleeping, eating, cooking, or recreation, or a combination thereof. A floor used only for storage purposes is not a "habitable floor."

HEAVY AUTOMOTIVE REPAIR: Establishments primarily engaged in providing (1) a wide range of mechanical and electrical repair and maintenance services or (2) engine repair and replacement for large automotive vehicles, such as commercial trucks, farm equipment and motor vehicles other than passenger cars and light duty trucks and vans. (Added Ord. 907, January 14, 2009)

HERITAGE TREE: Any tree of exceptional value to the community based on its size (relative to species), history, location, or species, or any combination of these criteria.

HISTORIC: A structure or site, usually over 50 years old, which possesses historical or architectural significance according to the City inventory and/or based on the criteria for listing in the National Register of Historic Places.

HOME OCCUPATION: A commercial activity carried on by the resident of a dwelling as a secondary use. This definition may include such occupations or practices which shall be conveniently, unobtrusively, and inoffensively pursued exclusively within a dwelling and/or exclusively within an accessory building.

HOSPITAL: An institution in which patients or injured persons are provided overnight medical care and may also include out-patient clinics, administrative offices and medical offices. Unless otherwise specified, this means for humans only.

HOTEL: Any building containing guest rooms intended to be used, rented, or hired out for sleeping purposes by guests.

HYDRIC SOILS: Soils that are rated “poorly drained” or “very poorly drained” by the National Cooperative Soil Survey.

INCIDENTAL SIGNS: A sign which is normally incidental to the allowed use of the property, but can contain any message or content. Such signs can be used for, but are not limited to, nameplate signs, warning or prohibition signs, and directional signs not otherwise allowed.

INDIRECT ILLUMINATION: A source of illumination directed toward a sign so that the beam of light falls upon the exterior surface of the sign. (Ord. 898, August 20, 2007)

INTEGRATED BUSINESS CENTER: A group of two or more businesses that are planned or designed as a center, whether or not the businesses or buildings are under common ownership. (Ord. 898, August 20, 2007) (Amended Ord. 913, September 2, 2009)

INTERNAL ILLUMINATION: A source of illumination from within a sign.

JOINT ACCESS (OR SHARED ACCESS): A driveway connecting 2 or more contiguous sites to the public street system.

JUNKYARD: a yard, field or other outside area used to store, dismantle or otherwise handle:

A. Discarded, worn-out or junked plumbing, heating supplies, electronic or industrial equipment, household appliances or furniture;

B. Discarded, scrap and junked lumber; or

C. Old or scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, waste and all scrap iron, steel and other scrap material. (Added Ord. 913, September 2, 2009)

JURISDICTIONAL DELINEATION: A delineation of the wetland boundaries that is approved by the Oregon Department of State Lands (DSL). A delineation is a precise map and documentation of actual wetland boundaries on a parcel, whereas a determination may only be a rough map or a presence/absence finding. (See OAR 141-90-0005 et seq. for specifications for wetland delineation or determination reports). (Amended Ord. 920, May 3, 2010)

KIOSK: A structure with a ground area of less than 16 square feet, used to display advertising, notices, advertisements, etc. (Added Ord. 902, May 7, 2008)

LAND AREA: The area of a parcel of land as measured by projection of the parcel boundaries upon a horizontal plane, with the exception of a portion of the parcel within a recorded right-of-way or easement, subject to a servitude for a public street or scenic or preservation purpose.

LIVE-WORK UNIT: a structure or portion of a structure:

1. That combines a commercial or manufacturing activity allowed in the zone with a residential living space for the owner of the commercial or manufacturing business, or the owner's employee, and that person's household; and
2. Where the resident owner or employee of the business is responsible for the commercial or manufacturing activity performed. (Added Ord. 998, August 31, 2016)

LOADING SPACE: An off-street space or berth on the same lot with a building, or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley, or other appropriate means of access. (Ord. 898, August 20, 2007)

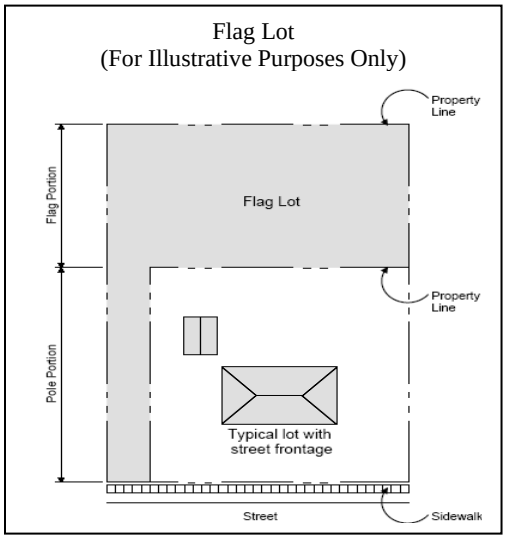
LOCALLY SIGNIFICANT WETLANDS: A wetland that is determined to be significant under the criteria of OAR 141-86-0300 et seq. These criteria include those wetlands that score a high rating for fish or wildlife habitat, hydrologic control, or water quality improvement functions.

LOCAL WETLANDS INVENTORY (LWI): Maps and report adopted by the City of Stayton entitled "City of Stayton Local Wetlands and Riparian Inventory" prepared by Fishman Environmental Services, dated July 1998. The LWI is a comprehensive survey of all wetlands over ½ acre in size within the urbanizing area.

LOT: A legally established parcel or tract of land which is occupied or is capable of being occupied by a building or group of buildings, including accessory structures, together with such yards or open spaces as are required by this code.

1. **LOT, BACK**: A lot that does not abut a street.
2. **LOT, CORNER**: A lot with 2 adjacent sides abutting streets, other than alleys, provided the angle of the intersecting streets do not exceed 135 degrees.
3. **LOT, FLAG**: A lot or parcel of land taking access by a relatively narrow strip of land between the major portion of the parcel and the point of public access to the parcel, all of which is within the same ownership or title.

4. **LOT, INTERIOR**: A lot other than a corner lot, back lot, or flag lot.



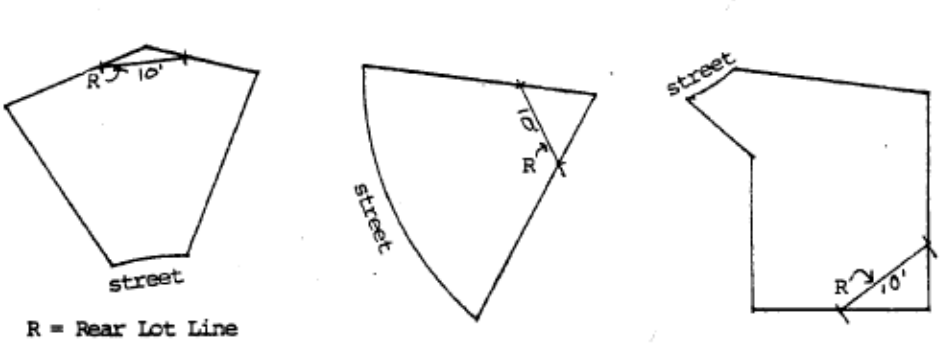
LOT AREA: The total area within a horizontal plane within the lines of a lot except in the case of a flag lot when the area shall exclude the pole portion of the lot.

LOT AREA, MOBILE HOME PARK: The total area reserved for exclusive use of the occupants of a mobile home space.

LOT, DEPTH: The horizontal distance between the front lot line and the rear lot line measured at a point halfway between the side lot lines.

LOT LINE: The lines bounding a lot as defined below:

1. **FRONT**:
   a. On an interior lot, the line separating the lot from the street right-of-way.
   b. On a corner lot, the lines separating the lot from either street right-of-way.
   c. On a double frontage lot, the line separating the lot from the street right-of-way from which vehicular access is gained.
   d. On a flag lot, the nearest property line of the flag portion of the lot to the street right-of-way extended across the point where the pole connects with flag portion**.**
   e. On a back lot, the property line that is nearest to, and most parallel to the street right-of-way from which vehicular access is gained.
2. **REAR**: A lot line which is opposite and the most distant from the front lot line. On a corner lot, the line opposite the street from which vehicular access is gained. In the case of a triangular shaped lot or other lot without a lot line opposite the front line, the rear lot line for building purposes shall be assumed to be a line 10 feet in length within the lot, parallel to and at the maximum distance from the front lot line.



(Ord. 898, August 20, 2007)

3. **SIDE**: Any lot line which is not a front or rear lot line.

LOT LINE ADJUSTMENT: A realignment of a common boundary between 2 contiguous lots or parcels which does not involve the creation of a new lot or parcel.

LOT OF RECORD: A lot which is part of a subdivision or a lot or parcel described by metes and bounds which has been recorded in the office of the county recorder.

LOT WIDTH: The horizontal distance between the side lot lines, measured at right angles to the lot depth at a point midway between the front and rear lot lines.

LOT WIDTH, AVERAGE: The lot area divided by the lot depth.

LOWEST FLOOR: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosed is not built so as to render the structure in violation of the applicable non-elevation design requirements of the flood control element of this code.

MALL: A center affording access to shops, businesses, and restaurants.

MANUFACTURED HOME: A single family dwelling, transportable in 2 or fewer sections, designed to be used for permanent occupancy as a dwelling with a Department of Housing and Urban Development (HUD) label certifying that the structure is constructed in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended.

For flood plain management purposes only, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

MASTER PLANNED DEVELOPMENT: The development of an area of land as a single entity for a number of dwelling units or a number of uses, according to a plan which does not correspond in lot size, building, or type of dwelling, density, lot coverage, or required open space to the regulations otherwise required by this code, and which normally includes commonly owned open space and/or facilities.

MESSAGE SIGN: A sign which can change its message electronically and is designed to display various messages, including but not limited to signs displaying time and temperature.

MOBILE HOME: A single family dwelling transportable in 1 section built on a permanent chassis and built prior to June 15, 1976 and is not a recreational vehicle as defined in ORS 801.

MODIFICATION, MAJOR: A modification to an approved land use application that meets 1 or more of the following criteria:

1. A change in the type and/or location of access-ways, drives or parking areas affecting off site traffic.
2. An increase in the floor area proposed for non-residential use by more than 15% of the area previously specified.
3. A reduction of more than 10% of the area reserved for common open space or landscaping.
4. (Repealed Ord. 913, September 2, 2009)
5. (Repealed Ord. 913, September 2, 2009)
6. Increase in automobile parking spaces by more than 10%.
7. Proposals to add or increase lot coverage within an environmentally sensitive area or areas subject to a potential hazard.

8. Changes that exceed 10 feet in the location of buildings, proposed streets, parking configuration, utility easements, landscaping or other site improvements. (Ord. 898, August 20, 2007)
9. Change to a condition of approval, or change similar to subsections 1 through 9 that could have a detrimental impact on adjoining properties. The City Planner shall have discretion in determining detrimental impacts warranting a major modification.

MODIFICATION, MINOR: A modification to an approved land use application that meets none of the criteria for a major modification.

MODULAR HOME: A factory-built, prefabricated home designed to meet dwelling code requirements and for transport in 1 or more sections for final assembly and permanent installation on a building site. Considered a single-family dwelling within this code.

MONOPOLES: Monopoles consist of a single pole, approximately 3 feet in diameter at the base, narrowing to roughly 1.5 feet at the top and may support any combination of whip, panel, or dish antennas.

MONUMENT SIGN: A free-standing sign not mounted on a pole or poles where the entire sign from peak to ground is constructed of solid material.

MULTI-FACE SIGN: A sign which has two or more sign faces contained in a single sign structure.

MUNICIPAL FACILITY: Any facility which is immediately or is eventually to be taken over by the City for maintenance and operation. Facilities include, but are not limited to, public utilities, streets, sidewalks, curbs, parking lots, driveways, public buildings, and properties.

MUNTIN: A strip of wood or metal separating and holding panes of glass in a window.

MURAL: An illustration (with or without words or numbers) which is painted or otherwise applied directly to an outside wall of a structure or by means of flat panels that do not project from the walls. (Amended Or. 985, September 16, 2015)

NEIGHBORHOOD ACTIVITY CENTER: An attractor or destination for residents of surrounding residential areas. Includes, but not limited to existing or planned schools, parks, shopping areas, transit stops, and employment areas.

NEW CONSTRUCTION: Means structures for which the "start of construction" commenced on or after the effective date of this ordinance.

NON-CONFORMING ACCESS FEATURES: Features of the property access that existed prior to the date of adoption of the current standards and do not conform with the requirements therein.

NON-CONFORMING DEVELOPMENT: Any lawful development that does not comply with the development standards of Chapter 17.20 and existed prior to February 1, 2007 or any future amendments to Title 17.

NONCONFORMING SIGN: Any lawfully existing sign that no longer complies with the height, area, and placement regulations or other provisions of Section 17.20.140.

NON-CONFORMING STRUCTURE OR USE: A lawfully existing structure or use that does not conform to the requirements of this title: (Ord. 898, August 20, 2007)

NURSING HOME: Any home, place, or institution which operates and maintains facilities providing convalescent or nursing care, or both, for a period exceeding 24 hours for 2 or more ill or infirm patients not related to the nursing home administrator or owner by blood or by marriage. Convalescent

care may include but need not be limited to the procedures commonly employed in nursing and caring for the sick. A nursing home includes rest homes and convalescent homes, but does not include a boarding home for the aged, a retirement home, hotel, hospital, or a chiropractic facility licensed under the Oregon Revised Statutes.

OFF-PREMISE SIGN: Any sign that is located on a lot other than the lot on which the business or establishment is located, or the product or services being advertised are available.

OFFICIAL ZONING MAP: The map or maps upon which the zone locations in the City of Stayton are indicated in detail and with exactness so as to furnish the basis for property acquisition or building restrictions.

OPEN STORAGE AREA: An area on a lot where the main use stores or displays materials, equipment, finished product, or merchandise or provides long-term parking for vehicles in its fleet. (Amended Ord. 908, May 6, 2009)

OREGON FRESHWATER WETLAND ASSESSMENT METHODOLOGY (OFWAM): A wetland function and quality assessment methodology developed by the Oregon Department of State Lands.

ORS: Oregon Revised Statutes

OUTDOOR SERVICE AREA: All the building support functions located outside of a building including, but not limited to: loading docks and bays, trash containers and compactors, storage sheds and containers, heating, ventilation, and air conditioning (HVAC) facilities, and disk antennas.

OUTDOOR STORAGE YARD: Where the main use of a lot is the storage of materials not in a building.

OWNER: The owner of record of real property as shown on the latest tax rolls or deed records of Marion County. For purposes of sign regulation in Section 17.20.140, "owner" also means the owner or lessee of the sign. If the owner or lessee of a sign cannot be determined, then "owner" shall mean owner of the land on which the sign is placed.

PAD: A minimum foundation treatment for a permanent mobile home installation, the construction of which is to be in conformance with the State of Oregon, Department of Commerce guidelines, extending the length and width of the mobile home unit or units.

PARAPET: A low guarding wall that projects above the roof line.

PARKING AREA, PRIVATE: An open area, building, or structure, other than a street or alley, used for the parking of the automobiles of residents and guests of a building.

PARKING AREA, PUBLIC: Privately or publicly owned property other than streets or alleys, on which parking spaces are defined, designated or otherwise identified for use by the general public, and provided as part of a parking requirement for a subject property and/or an adjoining property.

PARTITION: The division of an area or tract of land into 2 or 3 parcels within a calendar year, which such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of such year but does not include:

1. Divisions of land resulting from lien foreclosures, divisions resulting from the foreclosure of a recorded contract for the sale of real property, or divisions of land resulting from the creation of cemetery lots;
2. A sale or grant of a parcel resulting from the recording of a subdivision or condominium plat;

3. A sale or grant by a person to a public agency or public body for state highway, county road, city street or other right of way purposes provided that such road or right of way complies with the applicable comprehensive plan and ORS 215.213 (2)(p) to (r) and 215.283 (2)(q) to (s). However, any property divided by the sale or grant of property for state highway, county road, city street or other right of way purposes shall continue to be considered a single unit of land until such time as the property is further subdivided or partitioned; or
4. A sale or grant by a public agency or public body of excess property resulting from the acquisition of land by the state, a political subdivision or special district for highways, county roads, city streets or other right of way purposes when the sale or grant is part of a property line adjustment incorporating the excess right of way into adjacent property.
5. Partitioning does not include any adjustment of a lot line by the relocation of a common boundary where an additional parcel is not created and where the existing parcel reduced in size by the adjustment is not reduced below the minimum lot size established by any applicable zoning requirement.

PARTITION, MAJOR: A partition which includes the creation of a road or street.

PARTITION, MINOR: (Repealed, Ord. 898, August 20, 2007)

PEDESTRIAN CROSSING: A pedestrian crossing is also known as a crosswalk. Oregon law defines a crosswalk as the prolongation of a curb, sidewalk or shoulder across an intersection, whether it is marked or not. Outside an intersection, a crosswalk is created with markings on the road.

PEDESTRIAN FACILITIES: A general term denoting improvements and provisions made to accommodate or encourage walking, including sidewalks, accessways, crosswalks, ramps, paths, and trails**.**

PEDESTRIAN WAY: A right-of-way for pedestrian traffic.

PERMITTEE: The person to whom a building permit, development permit, a permit or plan approval to connect to the sewer or water system, or right-of-way access permit is issued.

PILLAR OR POST: A vertical shaft or structure, with a minimum horizontal dimension of eight inches, used as a support for a roof, canopy or other architectural feature. (Added Ord. 913, September 2, 2009)

PLAN MAP: An officially adopted map of the City, including the urban growth boundary, showing land use designations and other graphic information which is part of the City Comprehensive Plan.

PLANTER STRIP: The area that lies behind the curb to the sidewalk and/or from the sidewalk to the property line.

PLAT: The final map, diagram, drawing, replat, and other writing containing the descriptions, location, specifications, dedications, provisions, and other information concerning a partition, subdivision or master planned development.

PLAZA: An area adjacent to a street or a public sidewalk, open and accessible to the public. (Added Ord. 902, May 7, 2008)

PORCH: An elevated walking surface at a building entry that is either covered or uncovered.

PORTABLE SIGN: Any sign not originally designed to be permanently affixed to a building, structure, or the ground; a sign originally designed, regardless of its current modification, to be moved from place to place. These signs include, but are not limited to, A-frame or sandwich board signs;

signs attached to wood or metal frames and designed to be self supporting and movable; and trailer reader boards. Portable signs are not to be considered temporary signs as defined and used in this chapter.

PERSON: Any individual, firm, partnership, corporation, company, association, syndicate, or any legal entity, and including trustees, receivers, assignees, or other similar representative thereof.

PRIVATE ROAD: Any roadway for vehicular travel which is privately owned and maintained and which provides the principal means of access to abutting properties.

PROJECTING SIGNS: A sign the face of which is not parallel to the wall on which it is mounted and which projects more than 18 inches from the structure, the lowest portion of which is at least eight feet above the underlying grade.

PUBLIC FACILITIES AND SERVICES: Projects, activities, and facilities which are necessary for public health, safety, and welfare.

PUBLIC ROAD: A road under the jurisdiction of a public body that provides the means of access to an abutting property as well as servicing through traffic.

QUALIFIED PUBLIC IMPROVEMENTS: See Section 13.12.205.4.

RAMADA: A stationary structure having a roof extending over a mobile home~~,~~ which may also extend over a patio or parking space for motor vehicles~~,~~ and is used principally for protection from weather.

REAL ESTATE SIGN: A sign the purpose of which is to rent, lease, sell, etc., real property, building opportunities, or building space.

REASONABLE ACCESS: The minimum number of access connections, direct or indirect, necessary to provide safe access to and from the roadway, as consistent with the purpose and intent of this section and any applicable plans and policies of the City of Stayton.

RECREATIONAL PERSONAL PROPERTY: Boats, boat trailers, snowmobiles, personal water craft, all-terrain vehicles (ATVs), and trailers designed primarily to carry ATVs or snowmobiles.

RECREATIONAL VEHICLE: A trailer or other vehicular or portable unit which is either self-propelled, towed, or carried by a motor vehicle and which is intended for temporary human occupancy. Recreational vehicles include travel trailers, motor homes, and campers. Recreational vehicles do not include utility trailers or canopies.

REIMBURSEMENT FEE: See Section 13.12.205.5.

REMODEL: To alter the structure of a wall or building.

REPAIR: The reconstruction or renewal of any part of an existing building for the purpose of its maintenance.

RESERVE BLOCK: A strip of land, usually 1 foot in width, across the end of a street or alley and terminating at the boundary of a subdivision, or strip of land between a dedicated street of less than full width and adjacent acreage, in either case reserved or held for future street extension or widening.

RESIDENTIAL FACILITY: A facility licensed by or under the authority of the Department of Human Resources under ORS 443.400 to 443.460, which provides residential care alone or in conjunction with treatment or training or a combination thereof for 6 to 15 individuals, who need not be related. Staff persons required to meet Department of Human Resources licensing requirements

shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential facility.

RESIDENTIAL GROUP HOME: A home licensed by or under the authority of the Department of Human Resources under ORS 443.400 to 443.825 which provides residential care alone or in conjunction with treatment or training or a combination thereof for 5 or fewer individuals, who need not be related. Staff persons required to meet Department of Human Resources licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential home.

RETAIL STORE: A store providing the sale of goods or commodities directly to the consumer.

RIGHT-OF-WAY: The area between boundary lines of a street. (Amended Ord. 913, September 2, 2009)

ROOF LINE: Either the eaves of the roof or the top of the parapet at the exterior wall. A "mansard roof" is below the top of a parapet and, for the purposes of this chapter, is considered to be a wall.

ROOF SIGN: A sign or any portion of a sign displayed above the highest point of the roof, whether or not such sign is a wall sign.

ROTATING/REVOLVING SIGN: A sign all or a portion of which moves in some manner.

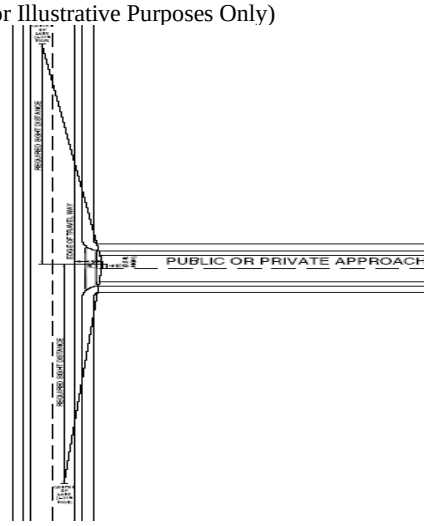
SELF-STORAGE FACILITY: A business establishment that provides individual spaces for lease or rent to individuals for the storage of personal property.

SEMI-PUBLIC USE: A structure or use intended or used for a semi-public purpose by a church, lodge, club, or any other non-profit organization.

SETBACK: The distance between a specified lot line and the foundation or nearest exterior wall of a building or structure.

SIGHT DISTANCE TRIANGLE: The distance from an intersection of a public or private road to the nearest access connection, measured from the closest edge of the pavement of the intersecting road to the closest edge of the pavement of the connection along the traveled way. The intersection and driveway sight distance is measured from an eye height of 3.5 feet above the controlled road at least 15 feet from the edge of the vehicle travel lane of the uncontrolled public road to an object height of 4.25 feet on the uncontrolled public road. For driveways along local access roads in urban and residential areas, the sight distance triangle is measured along the property lines of the street and along the driveway.

Sight Distance Triangle
(For Illustrative Purposes Only)



SIGN: Any writing, including letter, word, or numeral, pictorial representation, including mural, illustration, or decoration; emblem, including device, symbol, or trademark; flag, including banner or pennant; or any other device, figure, or similar thing which is a structure, or any part thereof; or which is attached to, painted on, or in any other manner represented on any building or structure or device; is used to announce, direct attention to, or advertise; and is visible from any public right-of-way.

SIGN ALTERATION: Any change in the size, shape, method of illumination, position, location, construction, or supporting structure of a sign. A change in sign copy or sign face alone shall not be considered an alteration.

SIGN AREA: The entire area within the perimeter of the smallest parallelogram that encloses the outer limits of any writing, representation, emblem, figure, or character. Area shall be determined as follows:

1. If the sign is enclosed in a frame or cabinet, the area is based on the inner dimensions of the frame or cabinet surrounding the sign face.
2. When a sign is on a base material and attached without a frame, such as a wood board or plexiglass panel, the dimensions of the base material are to be used.
3. Area of a sign having no perimeter, border, or base material shall be computed by enclosing the entire area within a parallelogram of the smallest size sufficient to cover the entire message of the sign and computing the area of the parallelogram.

The area of multi-faced signs shall be calculated by including only one-half the total area of all sign faces.

SIGN FACE: The surface of a sign containing the message. Sign face shall be measured as defined as "sign area" above.

SIGN HEIGHT: Distance from the finished ground level to the top of the sign or the highest portion of the sign structure or frame, whichever is greater.

SIGNS, NUMBER OF: For the purpose of computing the number of signs, all writing included within a sign area shall be considered one sign, except for multi-faced signs on a single sign structure, which shall be counted as one sign per structure. (Ord. 898, August 20, 2007)

SIGN STRUCTURE: Supports, uprights, braces, framework, and other structural components of a sign.

SITE PLAN REVIEW: A detailed examination of the physical characteristics of a proposed development or improvement to property, which special attention given to the design of the development or improvement and the potential impacts on adjoining properties or land uses.

SPACE, MOBILE HOME: An area or lot reserved exclusively for the use of a mobile home occupant.

STAFF: Appropriate department heads and those other City employees they deem necessary.

STANDARD SPECIFICATIONS: The most recent version of the City of Stayton Standard Specifications, Design Standards and Drawings, which contains uniform design, materials, and workmanship standards under which all public works facilities shall be constructed in the city, and which have been adopted by the City Council.

START OF CONSTRUCTION: The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation. Permanent construction does not include land preparation such as clearing, grading, and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure.

STAYTON CODE: The complete, duly adopted and amended municipal code of the City of Stayton.

STORY: That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement, cellar, or unused underfloor space is more than six (6) feet above grade as defined herein for more than 50% of the total perimeter or is more than 12 feet above grade as defined herein at any point, such basement, cellar, or unused underfloor space shall be considered a story. (see "Basement")

STORY, HALF: A story under a gable, hip, or gambrel roof, the wall plates of which are on at least 2 opposite exterior walls and are not more than 2 feet above the floor of such story.

STREET: A public or private way that is created to provide ingress or egress for motor vehicles to 1 or more lots, parcels, areas, or tracts of land. The term "street" shall include such designations as highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, court, place, or other such terms.

1. **PRINCIPAL ARTERIAL**: A street that carries the highest volume of traffic in the city and primarily provides access through the city or from the city to other cities. The principal arterial streets are identified in the Stayton Transportation System Plan.
2. **MINOR ARTERIAL**: A street that collects and distributes traffic from the principal arterials to streets of lower functional classifications providing for movement within specific areas of the city. Minor arterials service through traffic and provide direct access for commercial, industrial, office, and multi-family development but, generally not for single family residential properties. The minor arterial streets are identified in the Stayton Transportation System Plan.
3. **MAJOR COLLECTOR**: A street that provides for land access and circulation within and between residential neighborhoods and commercial and industrial areas. Collectors provide direct access to adjacent land uses but still service through traffic. The major collector streets are identified in the Stayton Transportation System Plan.
4. **MINOR COLLECTOR**: A street that is primarily within a residential area that is used to funnel traffic to major collectors. Minor collectors allow direct access for abutting properties. The minor collector streets are identified in the Stayton Transportation System Plan.
5. **CUL-DE-SAC**: A short, dead-end street with a circular vehicular turn-around at the dead-end.
6. **DEAD-END STREET**: A street with only one connection with another street.
7. **HALF-STREET**: A portion of the ultimate width of a street, usually along the edge of a subdivision where the remaining portion of the street shall be provided when adjacent property is subdivided.
8. **LOCAL STREET:** A street used exclusively for access to abutting properties. Also referred to as a minor street.

STREET TREE: A street tree is defined as a living, woody plant typically having a single trunk of at least 1.5 inches in diameter at a point 4 feet above mean ground level at the base of the trunk that is located in the public right-of-way.

STRINGCOURSE: Ornamental trim or brick work that separates the first story from the second story.

STRUCTURE: That which is built or constructed: An edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, regardless of whether it is wholly or partly above or below grade, including a gas or liquid storage tank that is principally above ground.

STUB-OUT (STUB STREET): A portion of a street or cross access drive used as an extension to an abutting property that may be developed in the future.

SUBDIVIDER: Any person who undertakes the division of a parcel of land for the purpose of transfer of ownership or development and including changes in street or lot lines.

SUBDIVISION: To partition a parcel of land into 4 or more parcels for the purpose of transfer of ownership or building development, either immediate or future, when such a parcel exists as a unit or contiguous units under a single ownership as shown on the tax roll of year preceding the partitioning, or has existed as a unit or contiguous units under a single ownership as shown on the tax roll for any year subsequent to the passage of this code.

SUBSTANTIAL DAMAGE: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before damage occurred.

SUBSTANTIAL IMPROVEMENT: Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either:

1. Before the improvement or repair is started, or
2. If the structure has been damaged and was being restored before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

This term does not however, include either:

1. Any project for improvement of structure to correct existing violations of state or local health, sanitary code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
2. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

SYSTEM DEVELOPMENT CHARGE: See Section 13.12.205.6

TEMPORARY SIGN: A sign not permanently affixed to a structure on a property. These signs primarily include, but are not limited to, canvas, cloth, or paper banners or posters hung on a building wall or on a permanent pole such as a free-standing sign support.

TOWNHOUSES: A multiple family dwelling of at least 2 stories in which each dwelling unit has space on the ground floor.

TRAIL: A pathway designed to provide walking, bicycling, equestrian and other non-motorized recreational and transportation opportunities.

TRAILHEAD: A designated location where the trail user accesses a specific trail or the trail system. It may be the point where the trail begins or anywhere along the trail system where the public is invited to access it.

TRANSPORTATION CAPITAL IMPROVEMENTS: Facilities or assets used for transportation purposes.

TRANSOM WINDOW: An opening above a door or window filled with clear or opaque glass.

UNIFORMITY RATIO: The ratio of minimum illumination to average illumination. (Added Ord. 909, May 20, 2009)

UNIT: As used in Section 17.20.130.5, any structure intended to be used as dwelling unit within a mobile home park. (Added Ord. 944, March 3, 2012)

UNOBSTRUCTED: Not to block off and cut off from sight.

URBAN GROWTH BOUNDARY: An adopted boundary around the City which defines the area in which the City expects to grow, where public facilities will be extended, and where joint planning responsibilities are exercised with Marion County and Linn County.

USE: The purpose for which land, submerged or submersible lands, the water surface, or a building is arranged, designed, or intended, or for which either land, water, or building is or may be occupied or maintained. As applied by this code, the term "land use" also includes building use and use of building.

VARIANCE: A grant of relief from the requirement of this ordinance which permits construction in a manner that would otherwise be prohibited by this ordinance.

WALKWAY: A hard-surfaced area intended and suitable for pedestrians, including sidewalks and the surfaced portions of accessways.

WALL SIGN: A sign attached to, erected against, or painted on an exterior wall of a building or structure, with the exposed face of the sign on a plane approximately parallel to the face of the wall and not projecting more than 18 inches from the wall.

WATER DEPENDENT: A structure for commerce or industry which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations.

WETLAND: An area inundated or saturated by surface or ground water at a frequency and duration sufficient to support and which, under normal circumstances, does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas, but also include seasonally wet meadows, farmed wetlands and other areas that may not appear “wet” all the time. (City of Stayton Local Wetlands & Riparian Inventory, 1998).

WETLAND PROTECTION AREA: An area subject to the provisions of Section 17.20.180 that includes all wetlands determined to be locally significant.

WETLAND RESOURCE MAP: The locally adopted map used as the basis for the regulations of Section 17.20.180, which incorporates the DSL-approved LWI map and identifies locally significant wetlands.

WIRELESS COMMUNICATION FACILITIES: An unstaffed facility for the transmission and/or reception of wireless communication services or radio frequency signals~~,~~ consisting of antenna, transmission cables, equipment shelters, ancillary structures, and a support structure to achieve the necessary elevation. The support structure includes but is not limited to a building or part thereof, water tower, light or utility pole, or monopoles.

YARD: An open space, on the same lot with a building that is unobstructed from the ground upward except as otherwise provided herein.

1. **YARD, FRONT:** A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and a line parallel thereto at the nearest wall of the main building.
2. **YARD, LANDSCAPED:** An open area or areas devoted primarily to the planting and maintaining of trees, grass, shrubs, and plants together with sufficient permanent irrigation installation to properly maintain all vegetation. Complementary features such as fountains, pools, screens, decorative lighting, sculpture, and outdoor furnishings, may be placed within said area.
3. **YARD, REAR:** A yard extending across the full width of the lot between the nearest wall of the main building and the rear lot line.
4. **YARD, SIDE:** A yard between the nearest wall of the main building and the side lot line, extending from the front yard, or front lot line where no front yard is required, to the rear yard. (Ord. 898, August 20, 2007)

17.04.110 VIOLATIONS AND PENALTIES

1. Any person, firm, or corporation who violates any provision of this Title is punishable upon conviction by a fine as provided in subsection 2 of this section. Each day that the violation persists shall be deemed as a separate offense. (Ord. 898, August 20, 2007)
2. Violation of any portion of this code is punishable by a fine of not less than five hundred dollars ($500.00) nor more than one thousand dollars ($1,000.00) for each infraction.
3. The remedies provided hereunder are cumulative and not exclusive. In addition to the penalties provided above and those specifically set out in particular sections of this code, the City, by and through its authorized personnel, may pursue any remedy provided by law including the institution of injunction, mandamus, abatement, or other appropriate proceeding to prevent, temporarily or permanently enjoin, or abate a code violation.

CHAPTER 17.08
COMPREHENSIVE PLAN

CHAPTER 17.08

COMPREHENSIVE PLAN

SECTIONS

17.08.010 PURPOSE

The purpose of this chapter is to provide a policy framework for the City to accommodate long-range urban population growth while maintaining the maximum efficiency of land uses within and on the fringe of the existing urban area; to maintain the compatibility of proposed urban uses with existing nearby agricultural activities; to comply with state regulations concerning comprehensive plan adoption; and to establish programs and policies by which the framework for urban growth can be developed and implemented.

17.08.020 COMPREHENSIVE PLAN

1. The City has adopted and shall maintain a comprehensive plan document consisting of written text and maps and supportive technical information. This comprehensive plan shall be the principal document to guide the future growth and development of the City. It shall be the function of the comprehensive plan to provide a basis for land use regulations as set forth in this code. The plan shall be an expression of City public policy toward growth and development. The plan shall contain but not be limited to the following elements:
   a. Policies Element
   b. Natural Resources, Scenic and Historic Areas, and Open Space Element(Ord. 898, August 20, 2007)
   c. Transportation Element
   d. Parks and Recreation Element
   e. Public Facilities and Services Element
   f. Land Use Element
   g. Economic Element
   h. Energy Element
   i. Housing Element (Ord. 898, August 20, 2007)
   j. Urban Growth Program
2. Adoption and Changes to Plan
   a. Method: The plan and amendments thereto shall be adopted by ordinance, following proceedings conducted in accordance with the standards and criteria set forth in Chapter 17.12.
   b. Categories of Changes
      1) Amendment: A plan amendment may be a redesignation of an area from one land use classification to another, or a modification to policies or text of the plan. An amendment in any form is generally considered to be site-specific. An amendment will be processed pursuant to Chapter 17.12.
      2) Revision or Update: Major revisions, including the updating of all or parts of the plan and affecting the framework or principal elements of the plan, are not considered to be amendments and may not be initiated by individual applicants. Revisions or updates shall be considered legislative rather than quasi-judicial changes.

17.08.030 URBAN GROWTH MANAGEMENT

1. The following are the policies and criteria upon which the urban growth of the City shall be based:
   a. The existing boundaries of the City should remain relatively unchanged until a major portion of the City's usable land has been developed for urban purposes.
   b. Extension of the City's urban services should be preceded by a careful evaluation of the facts, with major emphasis given to the overall community costs and benefits.
   c. Developments which can be served by a gravity flow sewage system should be given priority.
   d. The City is the logical provider of services in the defined urban service area; therefore, development outside the City boundaries should be coordinated closely with the City.
   e. All government units whose responsibilities affect the growth and development of the Stayton area should review the urban growth program for the City.
   f. The physical size of the urban service area will be relative only to time and the changing needs of the community. If the criteria used to delineate the urban service area change, the City will have need to re-evaluate its urban growth program.
   g. The concept of acreage residential zoning as defined in the Marion County Zoning Ordinance should be applied to areas north and east of the City. This type of zoning permits acreage residential homesite at a specific density (i.e., two, three, five acres, etc.) based on the needs and physical limitations of the area. In some cases, farm use zoning may also be appropriate, especially for the area west of the City.
2. The urban growth boundary of the City shall be that depicted as the urban growth boundary line on the Comprehensive Plan Map of the City of Stayton.

CHAPTER 17.12
DEVELOPMENT APPROVAL PROCEDURES

Adopted Ord. 894, January 2, 2007
Amended Ord. 898, August 20, 2007
Amended Ord. 901, April 16, 2008
Amended Ord. 902, May 7, 2008
Amended Ord. 913, September 2, 2009
Amended Ord. 918, March 18, 2010
Amended Ord. 945, March 5, 2012
Amended Ord. 949, April 17, 2013
Amended Ord. 960, September 3, 2013
Amended Ord. 982, August 5, 2015
Amended Ord. 1005, February 2, 2017
Amended Ord. 1017, April 18, 2018
Amended Ord. 1032, June 19, 2019
Amended Ord. 1034, July 17, 2019

CHAPTER 17.12

DEVELOPMENT APPROVAL PROCEDURES

SECTIONS

17.12.010 PURPOSE

The purpose of this chapter is to provide clear and uniform procedures for the application for, review of, and decisions upon requests for land use and development permits.

17.12.020 APPLICATIONS FOR CHANGES AND EXCEPTIONS

All applications for land use and development approval actions as governed by the land use and development code are subject to the procedures and conditions set forth herein.

17.12.030 APPLICATION PROCEDURE

Any application for a land use or development approval action authorized in this title shall be filed in the following manner.

1. FORMS. The application shall be submitted on forms provided by the City Planner.
2. FILING LOCATION. Unless stated otherwise, the application shall be filed with the City Planner at City Hall.
3. PROPERTY OWNER AUTHORIZATION. If the property owners are not the applicants, then the application shall be accompanied by a notarized statement certifying the authority of anyone representing the owner(s) of property involved in the application. The application shall be signed by the property owner or authorized representative.
4. SUPPLEMENTAL INFORMATION. All supplemental documentation and information specified in those sections governing the approval or action being requested shall accompany the application. The applicant shall be responsible for providing any and all information required for a complete application.
5. COST FOR SERVICES.
    a. Basic Application Costs. Basic application costs are intended to recover expenses incurred by the City in the receipt, review and processing of a land use application. A deposit in an amount established in the Deposit Schedule will be required at the time an application is filed.
    b. Outside Planning Services. An applicant may, upon permission of the City, choose outside planning services at the applicant's expense, approved by the City, to process any land use application. The outside planning service will be tantamount to the function of the City Planner and will be subject to the supervision, direction and review of the City Planner. Utilizing outside planning services does not forego the City's requirement as to costs (including non-refundable deposit).
    c. In the event the application is withdrawn before City action, the applicant shall be responsible to pay for the costs incurred up to the time of its withdrawal.
    d. Waiver of Charges. The City Council may, at its discretion, waive some or all charges for the processing of applications determined by the City Council to be in the public interest.
6. DEPOSIT SCHEDULE. A deposit schedule shall be in resolution form and adopted by the City Council.

17.12.040 MULTIPLE APPLICATIONS

1. PROCESSING. Combined or multiple requests by the same applicant(s) for approvals of different land use and development permits which are governed by the provisions of this chapter and which affect the same property or properties, shall be considered concurrently by the City. In the case of different applications requiring Planning Commission final action for one and City Council final action for another, the City Council may act upon both together.
2. CHARGES FOR MULTIPLE APPLICATIONS. Multiple applications shall be assessed charges as provided in Section 17.12.030 for each individual application which is part of a multiple application. The City Administrator shall be empowered to waive all but the highest charge for multiple applications.

17.12.050 STAFF RESPONSIBILITY AND ACTIONS

1. Upon receiving an application, the City staff will review the application for completeness. Staff has a total of 30 days to review the application for completeness. The 120-day decision period begins the day after the application is deemed complete. It shall be the duty of staff to notify the applicant within three days of an application being deemed complete.

   If the information contained in the application is not sufficient for complete staff review, staff will return the application to the applicant with a written explanation disclosing what information, forms, or fees are missing. It shall be the responsibility of the applicant to revise or supplement the application as required by the City staff in order to make it a complete application. If appropriate, a written agreement from the applicant may be accepted by the City staff, explaining how the technical problems will be resolved or information prepared. Failure of the applicant to provide a complete application within 181 days of the original submission shall result in the application being considered withdrawn. City staff shall notify the applicant that the application is considered withdrawn and inform the applicant that the application may be resubmitted at any time.

2. For all cases in which City staff does not make the initial decision on an application, City staff shall refer the file, together with their report as required by this title, to the appropriate decision maker (Planning Commission or City Council), and shall schedule a public hearing therefore at the next available, regularly scheduled meeting.

3. For purposes of planning coordination, the City staff shall provide to local, state, and federal agencies likely to be impacted by the proposal or entitled to receive such notice under law, referrals of the request with an explanation of the character of the proposal. This referral will be made within 5 days of application acceptance. Agencies so contacted will be requested to reply within 12 days of mailing of the referral, and will be notified that failure to reply or participate in the hearing may be interpreted as no objection to the proposal. (Ord. 898, August 20, 2007)

4. For all applications other than a comprehensive plan amendment, the City staff will prepare a written staff report on the proposed action within 20 days after the application is deemed complete, or 7 days before a duly scheduled public hearing, whichever occurs earlier. A written report on a proposed comprehensive plan amendment shall be prepared within 30 days after the application is deemed complete, or 7 days before a duly scheduled public hearing, whichever occurs earlier.

5. For comprehensive plan amendment and zone change applications, the City staff shall notify the Oregon Department of Land Conservation and Development of the proposed amendment pursuant to the requirements of ORS 197.610. Comments or objections received as a result of the notification shall be made a part of the staff report to the Planning Commission and/or the City Council.

6. The staff shall present their report on the application to the Planning Commission and/or the City Council at the scheduled public hearing. (Ord. 898, August 20, 2007)

7. For all cases in which the Planning Commission acts as the decision authority on an application, City staff shall provide notice of the Planning Commission's actions to the City Council in accordance with Section 17.12.130. (Ord. 898, August 20, 2007)

8. It shall be the duty of the City staff to monitor the 120-day decision period and to notify the Planning Commission and City Council in a timely manner to allow completion of the prescribed process within the 120-day period.

17.12.060 NOTICE OF PUBLIC HEARING

1. Public notice of any public hearing before the Planning Commission or City Council shall include the following information:
   a. Identification of the application by City file number.
   b. Identification of the property involved in the request by ownership and tax map and tax lot numbers, and street address if available.
   c. Identification of the property owner and applicant.
   d. Date, time, and place of the hearing and the decision authority to conduct the hearing.
   e. A brief description of the nature of the application and the proposed activities or uses which could be allowed by a favorable decision.
   f. List the applicable criteria from the Comprehensive Plan and its implementing ordinances that apply to and govern the decision on the application under consideration.
   g. The name of the City staff or designee and a telephone number to contact where information may be obtained.
   h. A statement that the application, all documents and evidence relied upon by the applicant, and applicable criteria are available for inspection at the office of the City staff and that copies will be provided at reasonable cost.
   i. A statement that the staff report on the application will be available for inspection at the office of the City staff and that copies will be provided at reasonable cost within 7 days of the hearing.
   j. A general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.
   k. A statement that the failure to raise an issue in person or by letter during the open record period, or failure to provide sufficient specificity to afford the City an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals (LUBA) on that issue.
   l. A statement that indicates the day in which the application was deemed complete.
   m. If the hearing is an appeal, identification of the appellant's name if different than the property owner's name or applicant's name.
2. Notices of public hearing shall be mailed to each property owner of record within the affected area not later than 20 days prior to the first public hearing on a case, and not later than 10 days prior to any additional public hearings on the same case. The notification area shall be for all properties located a minimum of 300 feet from the exterior boundaries of the property which is the subject of the notice. Failure to receive such notice shall not affect the validity of the proceedings.
3. The applicant shall be required to post the property, 10 days prior to the hearing date, with a sign or placard provided by the City. The applicant shall file written certification or affidavit of such posting with the City staff prior to the hearing date. Posting shall be placed as near to a public street as possible, and shall be done in such a manner that the notice sign is easily visible from a public street.

4. In addition, for an application for annexation notice of each public hearing shall be published in a newspaper of general circulation in the community once each week for two successive weeks prior to the day of the public hearing. (Ord. 982, August 5, 2015)

17.12.070 DECISION AUTHORITY

1. AUTHORITY. The decision authority on applications shall be as follows:
   a. Staff Decisions. City staff shall be required and empowered to review, evaluate and render decisions on the following land use applications:
      1) Site Plan Review
         a) Development on a previously vacant lot for which the area of development is 5,000 square feet or less.
         b) Expansions, additions or other modifications to a previously developed lot that would increase the floor area of the structure by less than 15% or increase the number of parking spaces needed by less than 15%.
         c) (Repealed, Ord. 898, August 20, 2007)
      2) Final subdivision and partition plats.
      3) Minor modifications
   b. Planning Commission Decisions. The Planning Commission shall be empowered to review, evaluate and render decisions on applications for site plan reviews except as specified in 17.12.070.1.a.1; conditional uses; variances; partitions; preliminary and detailed development plans for master planned developments not associated with annexations, comprehensive plan changes, or zone changes; and subdivisions not associated with annexations, comprehensive plan amendments or zone changes.
   c. Planning Commission Recommendations. The Planning Commission shall be required to review, evaluate, and make recommendations to the City Council on all land use applications involving changes to the development code; comprehensive plan amendments; zone changes; annexations; and subdivisions or master planned developments associated with annexations, comprehensive plan amendments, or zone changes.
   d. City Council Decisions. The City Council shall be required and empowered to review, evaluate, and render final decisions on all land use applications involving changes to the development code; comprehensive plan amendments; zone changes; annexations; and subdivisions or master planned developments associated with annexations, comprehensive plan amendments or zone changes.
   e. City Council Authority. Notwithstanding the division of the authority to make decisions set forth above, the City Council shall have at its sole discretion, the authority to review and consider any land use action of the staff or Planning Commission.
   f. Combined Authority. At the discretion of the City Council, proceedings of the Council and Planning Commission may be combined in the form of mutual or joint public meetings, work sessions, or hearings. Unless otherwise determined by the Council, decisions or actions taken on applications subject to or following such proceedings shall have the status of final Council decisions or actions.
2. STANDARDS. It is the responsibility of the applicant to provide evidence that allows the decision authority to make findings that the application is in conformance with applicable standards of the Comprehensive Plan, this title, and other state and local law; and that the specific approval criteria for the application, as contained within applicable sections of this code, have been satisfied.

3. BURDEN OF PROOF. The applicant has the burden of proof for any land use action before the City of Stayton. According to law, the applicant must present to the decision authority facts, evidence, analysis, and justification for each and every decision criteria in order to carry that burden of proof. The burden of proof lies with the applicant to prove why their proposal complies with the Stayton Comprehensive Plan and the City's land use ordinances. There is no assumption that the applicant is entitled to an approval from the City of Stayton and the burden of proof does not lie with the City of Stayton, staff, or appointed or elected officials.

17.12.080 ADMINISTRATIVE DECISION PROCEDURE

1. ADMINISTRATION STAFF EVALUATION. The City staff shall consider the following matters in evaluating and reaching a decision on an application:
   a. Consistency of the proposed action with the mandatory approval criteria for the application including the objectives of this title and other applicable ordinances and policies of the City.
   b. Staff's own analysis and evaluation of the proposal~~;~~ including all facts submitted relevant to the application, any information in the record by the staff, and any other information that is of general knowledge.
2. NOTICE OF APPLICATION. Notice shall be mailed to each property owner of record within the affected area not later than 20 days prior to City staff taking any action on a land use application for which it is the decision maker. The notification area shall be for all properties located a minimum of 300 feet from the exterior boundaries of the property which is the subject of the notice. Failure to receive such notice shall not affect the validity of the proceedings.
3. ADMINISTRATIVE STAFF ACTION. On any application for which the City staff is empowered to make a decision pursuant to Section 17.12.070.1.a, staff may:
   a. Approve the proposal as submitted, including the establishment of conditions of approval as may be deemed appropriate.
   b. Request the proposal be modified in order to comply with this code before making a decision.
   c. Deny the proposal.
   d. Refer the application to the Planning Commission for a decision in accordance with Section 17.12.090.
4. FORM OF ADMINISTRATIVE ACTION. The decision of City staff shall be in the form of a written Notice of Decision, which shall be distributed pursuant to Section 17.12.130.
5. EFFECTIVE DATE OF ADMINISTRATIVE DECISION. Unless appealed or called up by the Planning Commission or City Council, a decision of City staff shall become final 14 days following the date of mailing of the Notice of Decision.

17.12.090 PLANNING COMMISSION HEARING AND DECISION PROCEDURE

1. TIMING. The staff report shall be placed before the Planning Commission no less than 7 days prior to the scheduled public hearing or meeting. The Planning Commission shall hold at least 1 public hearing on the proposal unless otherwise provided by this title. A work session(s) open to the public may also be held at the Commission's discretion.
2. RULES OF PROCEDURE. All public hearings shall be conducted in accordance with Stayton City Land Use Hearings Rules of Procedure, as amended. Copies of the Rules of Procedure shall be made available to applicants and other participants at the hearings.
3. EVIDENCE. Evidence received at any hearing shall be of the quality that reasonable persons rely upon in the conduct of their everyday affairs, and shall become part of the record for the application. Evidence shall address the mandatory approval criteria listed in the notice of hearing. The Planning Commission may reject any evidence that is immaterial or irrelevant to the approval criteria. Evidence that has been rejected shall be kept with the record on the application, but shall be noted on the face of that evidence that it was rejected, and the basis for the rejection.
4. PLANNING COMMISSION EVALUATION. The Planning Commission shall also consider the following matters in evaluating and reaching a decision on the application:
    a. Consistency of the proposed action with the mandatory approval criteria for the application**,** the objectives of this title**,** and other applicable ordinances and policies of the City.
    b. Staff analysis and evaluation of the proposal.
    c. The Planning Commission's own analysis and evaluation of the proposal including all facts submitted relevant to the application and any other information that is of general knowledge.
5. PLANNING COMMISSION ACTION. The Planning Commission shall make a decision on any application following a public hearing and other Commission action, except those requiring final action by the City Council. The Commission may:
    a. Approve the proposal as submitted, and establish conditions of approval as deemed appropriate by the Commission in order to bring the proposal into compliance with this Code.
    b. Request the proposal be modified in order to comply with this code before making a decision.
    c. Remand the application back to the City staff.
    d. Deny the proposal.
    e. Refer the matter on to the City Council without action or recommendation.
    f. On those actions requiring final approval by the City Council, the Planning Commission shall perform the same function as described in a. through c. of this section, except the Commission action shall be in the form of a recommendation to the Council rather than a final decision.
    g. If additional information is required to allow completion of action by the Planning Commission, it shall be prepared within 1 week, if possible, and brought before either a special meeting or the next regularly scheduled meeting of the Commission.

h. If so requested by a participant, the record of the hearing shall be held open for at least 7 days after the hearing is completed.

6. PLANNING COMMISSION REVIEW OF ADMINISTRATIVE DECISIONS. For actions where a Notice of Decision has been issued by City staff, any individual member of the Planning Commission may elect to call up the application to further consider the decision. A call up must be made within the appeal period as specified in Section 17.12.110, and shall be in writing on forms provided by City staff. When a decision is called up, the Planning Commission may elect to hold a public hearing, or refer the case back to the City staff with directions on how to proceed.
7. FORM OF ACTION. Planning Commission action shall be in the form of an order stating the Commission's findings of fact, conclusions of law, decision and any conditions of approval which shall be signed by the presiding officer of the Commission.
8. A Notice of Decision shall be distributed pursuant to Section 17.12.130.
9. REFERRAL OF ACTION. For those actions in which the Planning Commission is called upon to make only a recommendation to the City Council, the record of the matter, including Planning Commission orders and findings, and all information received by the Planning Commission shall be referred to the Council for review and further action.
10. EFFECTIVE DATE OF DECISION. Unless appealed or called up by the City Council or Mayor, a decision of the Planning Commission shall become final 14 days following the date of the Notice of Decision.

17.12.100 CITY COUNCIL HEARING AND DECISION PROCEDURES

1. COUNCIL HEARING REQUIRED. For all land use applications involving changes to the development code; zone changes; comprehensive plan amendments; annexations; and subdivisions or master planned developments associated with annexations, comprehensive plan amendments or zone changes the City Council shall conduct at least one public hearing on the application. Notice of public hearing shall be given pursuant to the procedures of Section 17.12.060. (Ord. 898, August 20, 2007)
2. COUNCIL HEARING OPTIONAL. The City Council, in its sole discretion, may hold a public hearing for any application, other than zone changes, comprehensive plan amendments, and annexations, which is before the Council for decision.
3. COUNCIL REVIEW OF ADMINISTRATIVE AND PLANNING COMMISSION DECISIONS. For those actions where a Notice of Decision has been issued by either City staff or the Planning Commission, any member of the Council or the Mayor may elect to call-up the application to further consider the decision. A call-up must be made within 14 days of the mailing of the notice of decision, and shall be in writing on forms provided by City staff. The Council may elect to hold a public hearing, or refer the case back to the original decision authority with directions on how to proceed when a decision is called up. Once a case is called up, staff and/or the Planning Commission lose jurisdiction to further consider the matter unless the Council directs otherwise. (Ord. 898, August 20, 2007)
4. HEARINGS. For those matters requiring City Council decision, the Council will consider recommendations of the Planning Commission and other information related to the application before the Council in the form of a de novo procedure. Hearings on appeals only may be de novo or on the record, as the Council deems appropriate. In cases heard on the record, no new evidence shall be allowed, however the applicant or appellant as the case shall be afforded a brief opportunity to argue the merits of the case to the Council, so long as no new evidence is presented.
5. PROCEDURES. Conduct and procedures of the hearing and matters to be considered by the City Council shall be the same as those prescribed for the Planning Commission hearing as described in Section 17.12.090.
6. COUNCIL ACTION. As the final decision maker for all City business, the City Council shall have the right to take whatever action it deems necessary on any land use case brought before it. The power and the authority of the Council in this regard are not limited in any way.
7. FORM OF ACTION. Any decision or action by the City Council on a land use case shall be by Order, except for annexations, zone changes, and comprehensive plan amendments which shall be by Ordinance. The Order and/or Ordinance shall contain detailed findings of fact and conclusions as to whether or not the facts satisfy the approval criteria. The decision shall contain the effective date or the decision, and the appeal rights of the parties. If the application is approved, the Order/Ordinance shall specify any conditions of approval established by the Council. The Council decision shall be mailed to all persons who are entitled to receive the Notice of Decision as specified in Section 17.12.130.
8. REMAND TO PLANNING COMMISSION. The City Council may remand any land use case to the Planning Commission for further proceedings, including conducting a new public hearing and making a new decision or recommendation. In the event of remand, the application shall be processed just as if it was a new application.

17.12.110 APPEALS

1. APPEAL OF ADMINISTRATIVE DECISION. An administrative decision of the City staff may be appealed to the Planning Commission by an aggrieved party within 14 days of the mailing of the Notice of Decision. The notice of appeal shall indicate the nature of the decision that is being appealed and the matter at issue will be a determination of the appropriateness of the interpretation of the requirements of this title. (Ord. 898, August 20, 2007)
2. APPEAL OF PLANNING COMMISSION DECISION. A Planning Commission decision may be appealed to the City Council by an aggrieved party within 14 days of the mailing of the Notice of Decision. The appeal shall be in writing and shall clearly state the issue being appealed and the grounds for the appeal. The appeal shall be placed before the Council. The Council will consider the appeal and either accept the appeal and set a date for public hearing, or elect to deny the appeal based on the record. If the Council accepts an appeal of a Commission action, the Council may at its discretion remand the decision back to the Commission for further consideration and findings which will then be reported to the Council prior to a final Council decision on the appeal.
3. JURISDICTIONAL DETERMINATION. In order for the appeal to be jurisdictionally adequate, and therefore able to be considered by the appropriate appellate authority, the appeal must meet all of the requirements set forth herein. These include**:** specificity**,** use of proper form (properly filled out)**,** payment of fee**,** and timely filing.
4. SPECIFICITY. Issues of appeal must be raised with sufficient specificity before the appeal body to have afforded the decision authority and the applicant, if appropriate, an adequate opportunity to respond to and resolve each issue.
5. STAY OF PROCEEDINGS. When an appeal is filed, it shall stay all proceedings by all parties in connection with the matter upon which the appeal is taken until the determination of such appeal is completed.
6. FEE. An appeal pursuant to Section 17.12.100.1 shall be accompanied by an application fee and deposit as required by the adopted Fee Schedule.
7. APPEAL FORM. In order to be properly considered, an appeal shall be submitted on an appeal form created by the City. Appeal forms shall be readily available to members of the public at not cost for the form. The appeal shall be filed with the City Planner.
8. Unless otherwise specified, where ever this code refers to “days”, that reference is to calendar days, not working days. To calculate the last day for appeal, the date of the notice should be excluded, and the last day of the appeal period should be included. The last day concludes at 5:00 p.m. If the last day falls on a legal holiday or a weekend, the last day shall be the next regularly scheduled workday thereafter. To be effective, appeals must be physically received by the Planning Department.

17.12.120 EFFECTIVE DATES AND DEADLINES FOR ACTIONS

1. EFFECTIVE DATE. A final decision on a quasi-judicial land use action is intended to provide certainty to the applicants and all parties participating in the process. The effective date of a decision shall be:

   a) 14 days from the date of the notice of decision for an administrative decision;

   b) 14 days from the date of the notice of decision for a decision by the Planning Commission;

   c) 21 days from the date of the notice of decision for a decision by the City Council.

   If a decision is not appealed pursuant as specified in 17.12.110, the decision becomes final.

2. EVIDENTIARY MATERIAL SUBMITTED. All documents or evidence relied upon by the applicant shall be submitted to the City staff at least 20 days prior to the first evidentiary hearing on the matter.

3. DEADLINES EXCEPT FOR PLAN AMENDMENT.

   a) The City shall take final action on an application for a multifamily housing of five or more dwellings, at least 50 percent of which will be sold or rented as affordable housing as defined in Section 1 of Chapter 745 of the Oregon Laws of 2017, and which will be subject to a covenant that restrict sales price or rents to maintain affordability, including any appeals within 100 days after the application is submitted and deemed complete.

   b) The City shall take final action on any other application, except for a comprehensive plan amendment or an annexation, including resolution of all appeals under Section 17.12.110 within 120 days after the application is submitted and deemed complete.

4. MINIMUM TIME FOR REAPPLICATION: An application denied after due consideration may not be resubmitted in less than one (1) year's time unless the applicant can demonstrate that the factual circumstances which brought about the denial no longer exist or are no longer applicable to the proposal.

5. EXTENSIONS. The applicant may elect to waive or grant an extension to the time requirement stated in subsection 3 of this section by written statement to the City staff. Such waiver requests shall be made a part of the record on the application. The total of all extensions may not exceed 245 days.

6. TIME CALCULATIONS. Unless otherwise specified, where ever this code refers to “days”, that reference is to calendar days, not working days. To calculate the last day for appeal, the date of the notice should be excluded, and the last day of the appeal period should be included. The last day concludes at 5:00 p.m. If the last day falls on a legal holiday or a weekend, the last day shall be the next regularly scheduled workday thereafter.

7. RIGHT MUST BE EXERCISED. Land use approvals granted under this Title shall be effective only when the exercise of the right granted therein is commenced within 1 year of the effective date of that decision, unless a longer period be specified or thereafter allowed by the decision authority. Exercising the rights granted by an approval shall require:

   a) Commencement of construction, with a valid building permit or site development permit, in the case of an application for variance, conditional use, or site plan review;

   b) Submittal and acceptance of construction plans, as required by Section 17.24.060, in the case of a partitioning or subdivision that requires construction plans; or

c) Submittal and acceptance of a draft final plat in the case of a partitioning or subdivision that does not require construction plans.

In case such right has not been exercised or extension obtained the approval shall be void.

8. EXTENSION OF APPROVAL. A written request for an extension of time, filed with the City Planner at least 30 days prior to the expiration date of the approval, shall extend the duration of the one-year period until the decision authority has taken action on the request if the following criteria are met:

   a. Progress has been made on final engineering.

   b. Applications to other regulatory agencies for necessary approvals have been filed.

   The decision authority shall, within 31 days of the filing of a request for extension consider whether to grant an extension. An extension shall be granted upon a finding that the criteria above are satisfied and that no changes in this Title have been enacted that would affect the application. Only one (1) extension may be granted of no longer than one year.

(All of Section 17.12.120 amended Ord. 1017, April 18, 2018)

17.12.130 NOTICE OF DECISION

All administrative, Planning Commission, and City Council decisions shall be produced as a written Notice of Decision. This Notice of Decision shall contain at a minimum, the following information:

1. A brief description of the proposal contained in the application.
2. The nature of the decision, including a description of any conditions of approval.
3. The effective date of the decision.
4. A brief description of the rights and procedures for appeals.

This Notice of Decision shall be mailed or electronically mailed to**:** the applicant**,** all persons who submitted comments in writing or electronically prior to the public hearing or testified at the public hearing**,** anyone who has requested a copy of the decision, and all members of the Planning Commission and City Council, within 3 days of the decision. (Amended Ord. 945, March 5, 2012)

17.12.140 SUBSTANTIAL CHANGES IN APPLICATION AFTER FILING

In the event, at the City Council level, the applicant proposes changes to the land use application under consideration that make it substantially different from the proposal that was considered by the Planning Commission, then the Council shall remand the case to the Planning Commission to consider the proposed changes. Changes that shall make the application substantially different include, but are not limited to, substantial changes to the following:

1. The size, number, or location of accesses. (Ord. 898, August 20, 2007)
2. Elimination of landscaping.
3. The size or configuration of the subject property. (Ord. 898, August 20, 2007)
4. Increase in the density of the proposal.
5. The location of the parking areas. (Ord. 898, August 20, 2007)

The application must be considered without the proposed changes in the event the applicant does not waive or appropriately extend the 120 day application completion requirement (Oregon Revised Statutes 227.179) prior to further consideration by the City.

17.12.150 MAJOR MODIFICATIONS TO APPROVED PLANS

1. PURPOSE STATEMENT. The purpose of this section is to provide an efficient process for modifying land use decisions in recognition of the cost and complexity of land development.
2. METHOD OF ADOPTION. Major modifications shall be adopted pursuant to the requirements of Sections 17.12.070 through 17.12.100. The decision shall be made in accordance with this title.
   a. This Section applies to all site plan reviews, subdivisions (but not partitions), and Master Planned Developments.
   b. Major modifications shall constitute a new land use application and not a continuation of the original approved land use application.

   This Section does not apply to Comprehensive Plan amendments, zone map amendments, annexations, variances or conditional use permits.
3. SUBMITTAL REQUIREMENTS. In order to be accepted as complete and processed in a timely manner by the City, requests for approval of major modifications shall include the following materials and information.
   a. Completed application forms as supplied by the City Planner.
   b. Three copies of the site plan to a scale of 1 inch equals not more than 50 feet showing the proposed modifications to the approved plan, the surrounding properties, neighboring streets and roads, and the previously approved plan. In addition, a reduced copy of the plan sized as 11 inches by 17 inches.
   c. A narrative statement fully explaining the request and fully addressing the criteria for approval of a major modification.
4. APPROVAL CRITERIA. The scope of the review shall be limited only to the modification request. The decision authority shall use as decision criteria, the criteria for the original development proposal (e.g. subdivision, site plan, master planned development) that apply within the scope of the modification request and the any conditions of approval from the original application. (This includes public infrastructure requirements under Standard Specifications and adopted Master Plans.)
5. IMPOSITION OF RESTRICTIONS AND CONDITIONS.
   a. The decision authority may prescribe restrictions or limitations for the proposed modification to an approved plan as it deems necessary to fulfill the purpose and intent of the zoning district in which the modification is being proposed and the requirements of this code. Such restrictions or limitations shall be based on evidence and analysis presented during the course of evaluation of the request~~,~~ and shall be made a part of the approval action.
   b. Any reduction or change of the requirements of the zoning regulations must be considered as varying those regulations and must be processed as a variance pursuant to Section 17.12.190.

17.12.160 PRE-APPLICATION MEETING

1. PURPOSE STATEMENT. The purpose of this section is to have conferences with prospective applicants to gather general information and City guidelines before the applicants enter into binding commitments or incurring substantial expense in the preparation of plans and land use applications.
2. WHEN REQUIRED. A minimum of 1 pre-application meeting must be held prior to submittal of an application: (Ord. 898, August 20, 2007)
3. SUBMITTAL REQUIREMENTS. A pre-application meeting will be scheduled only upon submission of the following materials to the City Planner 7 days prior to the meeting. The meeting shall be scheduled no more than 14 days after the City Planner has determined adequate information has been submitted.
   a. Form. A completed form provided by the City Planner requesting a pre-application meeting.
   b. Map(s). The applicant should provide a map(s) that allow staff to understand the general aspects of the proposed development. Maps do not need to be to scale, but it is recommended.
      1) The approximate topography.
      2) Approximate location of any existing buildings or proposed buildings.
      3) The approximate location of all proposed driveways, sidewalks and parking facilities.
      4) The approximate location of all proposed landscaping.
      5) Approximate location of any proposed land divisions.
   c. Narrative Statement. The applicant shall provide a brief narrative statement detailing the proposed uses for the site.
4. PROCEDURES FOR PRE-APPLICATION MEETINGS.
   a. The City Planner shall notify the Public Works Department, City Engineer, Marion County Public Works, and the Stayton Fire District of the preapplication meeting. (Ord. 898, August 20, 2007)
   b. The pre-application meeting shall be attended by representatives of the Planning and Public Works Departments.
   c. The applicant shall make a brief description of the project proposed project.
   d. City staff shall inform the applicant of the issues that will need to be addressed when the application is submitted and identify any potential sections of this code for which compliance may not be easily achieved.
   e. The opinions given by City staff at the pre-application meeting are non-binding upon the City and failure of staff to identify a Code provision for which compliance later becomes an issue shall not relieve the applicant from compliance with that provision should an application be submitted.

17.12.170 COMPREHENSIVE PLAN AMENDMENTS

1. PURPOSE. The Comprehensive Plan is the City's official and controlling land use document, guiding public and private activities that affect Stayton's growth, development, and livability. The Plan is intended to be a flexible document, reflecting changing circumstances and community attitudes through occasional amendments. This section provides a process for amending the Comprehensive Plan without violating its integrity or frustrating its purposes. This process applies to proposed amendments to Comprehensive Plan text, goals, policies or actions, and to Comprehensive Plan Map designations.

2. DEFINITION: A plan amendment may be the redesignation of an area from one land use classification to another, or a modification to policies or text of the plan. Amendments may either be legislative amendments or quasi-judicial amendments. A legislative amendment is one that is initiated by the City Council or Planning Commission, constitutes a change in policy or a correction of an error in the Plan, and affects a wide number of properties. A quasi-judicial amendment is one that is initiated by a property owner or group of property owners and results in changes in the Comprehensive Plan text or map that impacts a property or a small number of properties. Major revisions, including the updating of all or parts of the plan and affecting the framework or principal elements of the plan, are considered to be legislative amendments and may not be initiated by individual applicants.

3. INITIATION: A legislative Comprehensive Plan amendment may be initiated either by the Planning Commission or City Council by the adoption of a resolution. A quasi-judicial Comprehensive Plan amendment may be initiated by an applicant through the submission of an application.

4. METHOD OF ADOPTION: Pursuant to the requirements of Sections 17.12.060 through 17.12.100, Comprehensive Plan amendments shall be adopted by an ordinance passed by the City Council. All proceedings shall be conducted in accordance with this Chapter.

5. SUBMITTAL REQUIREMENTS: In order to be accepted as complete and processed in a timely manner by the City, applicant-initiated requests for Comprehensive Plan amendments shall include the following materials and information:

   a. Completed application forms as supplied by the City Planner.

   b. Evidence of the applicant's right, title or interest in the property for which the amendment is requested, including the latest recorded deed for the property. If the applicant is not the owner the applicant shall submit a purchase and sales contract, option, or other document executed by the owner indicating the applicant's right to proceed with the application.

   c. A map, drawn to scale, showing the property for which the amendment is requested, surrounding properties within 300 feet, neighboring streets and roads, existing plan designation(s) and zoning district(s) on the property, and the exact extent of requested land use designation(s).

   d. A narrative statement fully explaining the request and fully addressing the criteria for approval for a plan amendment. If the request is a text-only amendment (e.g., no requested change in land use designation), the statement must fully explain the nature of the requested amendment and provide reasons why the amendment is appropriate and how the Comprehensive Plan will continue to comply with all applicable statewide planning goals and administrative rules. For a Comprehensive Plan Map amendment, the narrative shall include at least the following:

      1) A statement of availability, capacity, and status of existing water, sewer, storm drainage, transportation, park, and school facilities.

2) A statement of increased demand for the above facilities that will be generated by the proposed change in land use designation. The applicant shall refer to the criteria of the City's facility master plans to determine the methodology used to estimate public facility demands. Information related to an actual development proposal may be included for informational purposes. At minimum, the demand calculations associated with the full range of development potential (min. to max.) under current vs. proposed land use designations shall be addressed in the analysis.

3) A statement of additional facilities required to meet the increased demand and phasing of such facilities in accordance with projected demand. The applicant shall review adopted public facility plans, master plans, and capital improvement programs, and state whether additional facilities are planned or programmed for the subject area. Information related to an actual development proposal may be included for informational purposes. At minimum, the demand calculations associated with the full range of development potential (min. to max.) under current vs. proposed land uses designations shall be addressed in the analysis

4) A traffic impact analysis in accordance with the requirements of Section 17.26.050.3. The City Engineer shall define the scope of the traffic impact analysis. Information related to an actual development proposal may be included for informational purposes. At minimum, the traffic calculations associated with the full range of development potential (min. to max.) under current vs. proposed land uses designations shall be addressed in the analysis.

5) A statement outlining the method and source of financing required to provide those additional facilities identified in subsection 3) above.

e. If the application is for a Comprehensive Plan Map amendment, the applicant shall concurrently submit an application for a Zoning Map Amendment.

6. APPROVAL CRITERIA: In order to approve a Comprehensive Plan amendment, the following affirmative findings concerning the action must be able to be made by the decision authority.

a. Legislative Amendments.

1) The amendment is consistent with the other goals and policies of the Comprehensive Plan, including any relevant area plans, and the statewide planning goals.

b. Quasi-judicial Amendments.

1) The amendment is consistent with the goals and policies of the Comprehensive Plan, including any relevant area plans, and the statewide planning goals. In the case of a Comprehensive Plan Map amendment, the requested designation for the site shall be evaluated against relevant Comprehensive Plan policies and the decision authority shall find that the requested designation on balance is more supportive of the Comprehensive Plan as a whole than the old designation.

2) The current Comprehensive Plan does not provide adequate areas in appropriate locations for uses allowed in the proposed land use designation and the addition of this property to the inventory of lands so designated is consistent with projected needs for such lands in the Comprehensive Plan.

3) Compliance is demonstrated with the statewide land use goals that apply to the subject properties or to the proposed land use designation. If the proposed designation on the subject property requires an exception to the Goals, the applicable criteria in the LCDC Administrative Rules for the type of exception needed shall also apply.

4) Existing or anticipated transportation facilities are adequate for uses permitted under the proposed designation and the proposed amendment is in conformance with the Oregon Transportation Planning Rule (OAR 660-012-0060).

5) The current Comprehensive Plan Map provides more than the projected need for lands in the existing land use designation.

6) Public facilities and services necessary to support uses allowed in the proposed designation are available or are likely to be available in the near future.

7) Uses allowed in the proposed designation will not significantly adversely affect existing or planned uses on adjacent lands.

7. PLAN MAP: Whenever any land is redesignated pursuant to a plan amendment, the Comprehensive Plan Map shall be modified to accurately portray such change.

(All of Section 17.12.170 adopted Ord. 960, Sept. 3, 2013)

17.12.175 LAND USE CODE AMENDMENTS

1. PURPOSE. This Title must be consistent with the adopted Comprehensive Plan, as amended, and as such is the implementation of the City's land use planning goals and policies. The purpose of this Section is to provide a framework for the adoption of amendments to this Title that meet the criteria of this Section.
2. DEFINITION: A Land Use Code amendment is an amendment to the text of this Title, any of the tables or diagrams in this Title, or the addition of new Chapters or Sections to this Title, but does not include an amendment to the Official Zoning Map.

   Land Use Code amendments are considered to be legislative amendments and may not be initiated by individual applicants. However, an individual may request the Planning Commission initiate an amendment.
3. INITIATION: A Land Use Code amendment may be initiated either by the Planning Commission or City Council by the adoption of a resolution. An individual may request the Planning Commission initiate a Land Use Code amendment by submitting a written request generally describing the proposed amendment.
4. METHOD OF ADOPTION: Pursuant to the requirements of Sections 17.12.060 through 17.12.100, Land Use Code amendments shall be adopted by an ordinance passed by the City Council. All proceedings shall be conducted in accordance with this Chapter.
5. SUBMITTAL REQUIREMENTS: If an individual would like to request that the Planning Commission initiate a Land Use Code amendment, the following information shall be submitted to the Planning Commission:
   a. A general description of the issue to be addressed by the amendment, citing the existing the Land Use Code provisions that are proposed to be changed.
   b. A draft of a proposed amendment, showing current text to be deleted crossed out and proposed text to be added underlined.
6. IMPACT ON TRANSPORTATION FACILITIES: Proposals to amend this Title shall be reviewed to determine whether they significantly affect a transportation facility pursuant to Oregon Administrative Rule (OAR) 660-012-0060 (Transportation Planning Rule - TPR). Where the City, in consultation with the applicable roadway authority, finds that a proposed amendment would have a significant effect on a transportation facility, the City shall work with the roadway authority to modify the request or mitigate the impacts in accordance with the TPR and applicable law.

(All of Section 17.12.175 except 17.12.175.6 adopted Ord. 960, Sept. 3, 2013)
(Section 17.12.175.6 adopted Ord. 1034, July 17, 2019)

17.12.180 ZONING MAP AMENDMENTS

1. PURPOSE. The Official Zoning Map must be consistent with the adopted Comprehensive Plan Map, as amended, and as such is a reflection of the City's land use planning goals and policies. The Official Zoning Map has also been adopted as part of this Code and covers only the area within the City Limits, whereas the Comprehensive Plan Map covers the entire area within the Urban Growth Boundary. The purpose of this Section is to allow for amendments to the Official Zoning Map that meet the criteria of this Section.

2. DEFINITION:

   When the Official Zoning Map is amended, there often must be a corresponding change to the Comprehensive Plan Map. There are, however, instances where more than one zone corresponds to a Comprehensive Plan designation. In these situations, the zone may be amended without a Comprehensive Plan Map amendment. Section 17.16.020.2 Classification of Zones, lists the relationship between the Comprehensive Plan Map and the Official Zoning Map designations in the City.

   Official Zone Map amendments are classified as legislative or quasi-judicial, depending on how they are initiated and the number of properties involved. A legislative amendment is the amendment of the Official Zoning Map, initiated by the City Council or Planning Commission, either to create a new zoning district that does not exist within Chapter 17.16 or to reclassify a large area of the City from one zoning district to another. A quasi-judicial amendment is one requested by a property owner or group of property owners reclassifying their property from one zoning district to another, provided the new zoning district exists within Chapter 17.16.

3. INITIATION: An Official Zone Map amendment may be initiated either by the Planning Commission or City Council by the adoption of a resolution or by an applicant through the submission of an application.

4. METHOD OF ADOPTION: Pursuant to the requirements of Sections 17.12.060 through 17.12.100, Official Zone Map amendments shall be adopted by an ordinance passed by the City Council. All proceedings shall be conducted in accordance with this Chapter.

5. SUBMITTAL REQUIREMENTS: In order to be accepted as complete and processed in a timely manner by the City, applicant-initiated requests for Official Zone Map amendments shall include the following materials and information:

   a. Completed application forms as supplied by the City Planner.

   b. Evidence of the applicant’s right, title or interest in the property for which the amendment is requested, including the latest recorded deed for the property. If the applicant is not the owner the applicant shall submit a purchase and sales contract, option, or other document executed by the owner indicating the applicant’s right to proceed with the application.

   c. A map, drawn to scale, showing the property for which the amendment is requested, surrounding properties within 300 feet, neighboring streets, existing Comprehensive Plan Map designation(s) and zoning district(s) on the property and surrounding properties, and the exact extent of requested zoning change.

   c. A narrative statement fully explaining the request and fully addressing the criteria for approval for an Official Zone Map amendment. At a minimum, the narrative shall include:

      1) A statement of availability, capacity, and status of existing water, sewer, storm drainage, transportation, park, and school facilities.

2) A statement of increased demand for the above facilities that will be generated by the proposed change in zone designation. The applicant shall refer to the City's facility master plans to determine the methodology used to estimate public facility demands. Information related to an actual development proposal may be included for informational purposes. At minimum, the demand calculations associated with the full range of development potential (min. to max.) under current vs. proposed land use designations shall be addressed in the analysis.

3) A statement of additional facilities required to meet the increased demand and phasing of such facilities in accordance with projected demand. The applicant shall review adopted public facility plans, master plans, and capital improvement programs, and state whether additional facilities are planned or programmed for the subject area. Information related to an actual development proposal may be included for informational purposes. At minimum, the demand calculations associated with the full range of development potential (min. to max.) under current vs. proposed land uses designations shall be addressed in the analysis

4) A traffic impact analysis in accordance with the requirements of Section 17.26.050.3. The City Engineer shall define the scope of the traffic impact analysis. Information related to an actual development proposal may be included for informational purposes. At minimum, the traffic calculations associated with the full range of development potential (min. to max.) under current vs. proposed land uses designations shall be addressed in the analysis.

5) A statement outlining the method and source of financing required to provide those additional facilities identified in subsection 3) above.

6. APPROVAL CRITERIA. In order to approve an Official Zoning Map amendment, the following affirmative findings concerning the action must be able to be made by the decision authority.

   a. Legislative Amendments. The amendment is consistent with the goals and policies of the Comprehensive Plan including any relevant area plans.

   b. Quasi-judicial Amendments.

      1) The proposed zone is consistent with the Comprehensive Plan map designation for the subject property unless a Comprehensive Plan Map amendment has also been applied for and is otherwise compatible with applicable provisions of the Comprehensive Plan.

      2) Existing or anticipated services (water, sanitary sewers, storm sewers, schools, police and fire protection) can accommodate potential development in the subject area without adverse impact on the affected service area.

      3) Existing or anticipated transportation facilities are adequate for uses permitted under the proposed zone designation and the proposed amendment is in conformance with the Oregon Transportation Planning Rule (OAR 660-012-0060).

      4) The purpose of the proposed zoning district satisfies the goals and policies of the Comprehensive Plan.

      5) Balance is maintained in the supply of vacant land in the zones affected by the zone change to meet the demand for projected development in the Comprehensive Plan. Vacant land in the proposed zone is not adequate in size, configuration or other characteristics to support the proposed use or development. A Zone Map Amendment shall not eliminate all available vacant land from any zoning designation.

6) The proposed zone amendment satisfies applicable provisions of Oregon Administrative Rules.

7) The physical characteristics of the property proposed for rezoning are appropriate for the proposed zone and the potential uses allowed by the proposed zone will not have an adverse impact on the surrounding land uses. (Added Ord. 1005, February 2, 2017)

7. ZONING MAP. Whenever any premises are reclassified as to zone or a new zone established, or boundary lines of a zone changed, the Official Zoning Map shall be changed.

(All of Section 17.12.180 adopted Ord. 960, Sept. 3, 2013)

17.12.190 CONDITIONAL USES

1. DEFINITION. A conditional use is an activity which is basically consistent with other uses permitted in the zone, but due to some of the characteristics of the activity which might not be entirely compatible with the zone, such use requires City review to determine and/or control potential adverse impacts.
2. METHOD OF ADOPTION. Conditional uses shall be adopted pursuant to the requirements of Sections 17.12.070 through 17.12.100. All decisions shall be made in accordance with this title.
3. SUBMITTAL REQUIREMENTS. In order to be accepted as complete and processed in a timely manner by the City, requests for approval of conditional uses shall include the following materials and information:
   a. Completed application forms as supplied by the City Planner.
   b. Three copies of a site plan, drawn to a scale of 1 inch equals not more than 50 feet of the property for which the conditional use is requested, surrounding properties, neighboring streets and roads, existing uses of the property, and proposed development and improvements of the property pursuant to the conditional use request. In addition, a reduced copy of the plan sized as 11 inches by 17 inches. (Ord. 898, August 20, 2007)
   c. A narrative statement fully explaining the request and fully addressing the criteria for approval of a conditional use.
4. APPROVAL CRITERIA. In order to approve a conditional use request, the following affirmative findings concerning the action must be able to be made by the decision authority.
   a. The proposed conditional use is compatible with the surrounding area as measured by factors such as noise, odors, appearance, traffic congestion, hazards to the public, generation of waste products, scale of development, excessive glare of lighting, and demand on public services and facilities.
   b. The proposed conditional use is compatible with the purposes and standards of the zoning district in which it is proposed.
   c. Identified adverse impacts may be mitigated or eliminated through the imposition of special conditions on the proposed use or by modifying the proposed use.
   d. There will be no adverse affects on the normal flow or movement of traffic in the immediate area.
   e. There are available urban services to the property.
   f. Other property in the City that would allow the proposed use outright is not reasonably available.
5. IMPOSITION OF RESTRICTIONS AND CONDITIONS.
   a. The decision authority may prescribe restrictions or limitations for the proposed conditional use as it deems necessary to fulfill the purpose and intent of the zoning district in which the use is being proposed and the requirements of this code. Such restrictions or limitations shall be based on evidence and analysis presented during the course of evaluation of the request and shall be made a part of the approval action. Conditions may limit the time or duration of the use.

b. Any request to not comply with the requirements of Chapters 16, 20, 24 or 26 of this Title must be considered as varying those regulations and processed as a variance pursuant to Section 17.12.200. (Ord. 898, August 20, 2007)

17.12.200 VARIANCES

1. DEFINITION. A variance is an approved modification to**,** or relief from a specific regulation or set of regulations imposed by provisions of this title. A variance approval is limited to the individual condition and/or instance for which the variance has been requested.
2. METHOD OF ADOPTION. Variances shall be adopted pursuant to the requirements of Sections 17.12.070 through 17.12.100. All decisions **s**hall be made in accordance with this title.
3. VARIANCES ALLOWED. The decision authority shall have the power to vary or modify the strict application of only the regulations or provisions of this title governing:
   a. Land Use Requirements.
      1) Lot area
      2) Lot width
      3) Percentage of lot coverage
      4) Height of structures
      5) Location of structures
      6) Setbacks
      7) Signs
      8) Parking and loading space
      9) Vision clearance
      10) Accessory uses
      11) Landscaping
      12) Expansion of non-conforming uses
   b. Flood hazard management requirements.
4. SUBMITTAL REQUIREMENTS. In order to be accepted as complete and processed in a timely manner by the City, requests for approval of a variance shall include the following materials and information:
   a. Completed application forms as supplied by the City Planner.
   b. A narrative statement fully explaining the code regulation for which the variance is being sought, the nature of the variance request, and addressing all applicable criteria for approval of a variance.
   c. Three copies of a site plan drawn to a scale of 1 inch equals not more than 50 feet and shown as a graphic scale of the property for which the variance is requested, surrounding properties, neighboring streets and roads, existing uses of the property, and, as appropriate, the condition to be varied. In addition, a reduced copy of the plan sized as 11 inches by 17 inches.
5. LIMITATIONS. The power of the decision authority to grant variances from the strict application of the provisions of this title shall be used sparingly, within the spirit and intent of this code, and applied reasonably to maintain and not abolish the distinctive zoning classifications and other land use regulations created by this title.

6. DECISION CRITERIA. A variance is subject to the following general and specific approval criteria. No variance shall be approved without affirmative findings being made that the request fully satisfies these approval criteria.

   a. General Criteria Applicable to All Requests.

      1) The granting of the variance would not be materially detrimental to the public health, safety, or welfare or the overall public interest of the citizens of the City as expressed within this title and the adopted Comprehensive Plan.

      2) The granting of the application complies with the applicable specific approval criteria as follows.

   b. Specific Variance Criteria.

      1) Variance to Land Use Regulations.

         a) The property is subject to exceptional or extraordinary circumstances such as lot size, shape, topography, or other similar circumstances over which the property owner has no control and which do not generally apply to other properties in the same zoning district and/or vicinity.

         b) The variance is necessary for the reasonable preservation of a property right of the applicant which is the same as that enjoyed by other landowners in the zoning district.

         c) The variance would conform to the purposes of the applicable zoning regulations and would not generate a significant adverse impact on other property in the same zoning district or vicinity.

         d) Approval of the variance would not create an identifiable conflict with the provisions of the Comprehensive Plan or achieve the same conditions as a comprehensive plan amendment or zone change for the property.

         e) The variance being requested is the minimum relief available to alleviate the difficulty giving rise to the application.

         f) The variance would not have the effect of granting a special privilege not generally shared by other property in the same zoning district.

         g) The request for the variance is not the result of an action taken by the applicant or a prior owner.

      2) Variance to Flood Hazard Regulations.

         a) Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places without regard to the procedures set forth in the remainder of this section.

         b) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

         c) Variances shall only be issued upon

            i. A showing of good and sufficient cause

            ii. A determination that failure to grant the variance would result in exceptional hardship to the applicant

iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, ordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in Sections 17.16.100, or conflict with existing local laws or ordinances.

iv. A determination that the technical factors identified in subsection e) of this section will be met.

d) When evaluating applications for a flood control regulation variance, the decision authority shall examine**:** all technical evaluations, all relevant factors, standards specified in other sections of the flood control provisions (Section 17.16.100) and determine that:

i. The danger that materials may be swept onto other lands to the injury of others will be minimized.

ii. The danger to life and property due to flooding or erosion damage will be minimized.

iii. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner is not more susceptible to flood damage as a result of the variance.

iv. There are no available alternative locations for the proposed use which are not subject to flooding or erosion damage.

v. The proposed use will be compatible with existing and anticipated development

vi. The proposed use conforms to the Comprehensive Plan and flood plain management program for that area.

vii. There will be safe access to the property in times of flood for ordinary and emergency vehicles.

viii. The proposed use has been designed to withstand damage considering the heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.

ix. There will be no increase in the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

e) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items 6.b.2.a to 6.b.2.d of this section have been fully considered.

f) Upon consideration of the factors 6.b.2.a to 6.b.2.d of this section, the decision authority may attach such conditions to the granting of variances as it deems necessary to further the purposes of this code section.

g) The City Administrator shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.

h) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

7. IMPOSITION OF RESTRICTIONS AND CONDITIONS.

a. The decision authority may prescribe restrictions or limitations for the proposed variance as it deems necessary to fulfill the purpose and intent of the code provisions which are requested to be varied~~,~~ and the requirements of this code. Such restrictions or limitations shall be based on evidence and analysis presented during the course of evaluation of the request and shall be made a part of the approval action. (Ord. 898, August 20, 2007)

b. A violation of any such condition(s) or limitation(s) shall constitute a violation of this title.

17.12.210 ANNEXATIONS (Amended Ord. 901, April 16, 2008; Ord. 918, March 18, 2010)

1. DEFINITION. An annexation is an expansion of the City limits through the addition of territory to the jurisdictional boundaries of the City, including "contract annexation" agreements between applicants and the City.

2. METHOD OF ADOPTION.

   a. Major Annexations.

      1) A Major Annexation is an annexation that meets one or more of the following characteristics.

         i. Consists of two or more parcels, except proposed annexations that consist of contiguous parcels in the same ownership.

         ii. The area proposed for annexation exceeds 1 acre, except a health hazard annexation. (Amended Ord. 918, March 18, 2010)

      2) Approval procedures. The following procedures shall be followed in the review and approval of an application for a Major Annexation:

         i. Major Annexations are subject to referendum approval. The City Council may schedule a vote on an annexation proposal only in the May or November elections.

         ii. Submission Deadlines. An application for a Major Annexation shall be filed with the City Planner before 5:00 p.m. on the last working day in September for a ballot election in May and the last working day in March for a ballot election in November.

         iii. Planning Commission Proceedings. The Planning Commission shall hold a public hearing in accordance with the requirements of Section 17.12.090. Following the public hearing the Commission shall make findings of fact and conclusions as to whether the criteria of Section 17.12.210.4 below are met. Based on the findings of fact and conclusions, the Planning Commission shall make a recommendation to the City Council regarding the approval of the application.

         iv. City Council Proceedings. The City Council shall hold a public hearing in accordance with the requirements of Section 17.12.100. Following the public hearing, the City Council shall make findings of fact and conclusions as to whether the criteria of Section 17.12.210.4 below are met. If the Council finds that the criteria of Section 17.12.210.4 have been or will be met, the Council shall enact a resolution scheduling a referendum vote at the next available scheduled election. A decision by the Council approving the annexation, and referring to the voters, shall be final upon adoption for appeal purposes, but shall not be effective until all applicable appeal periods have passed with no appeal having been filed.

         v. Legal advertisement of pending election. After City Council review and approval, the City Administrator shall cause a legal advertisement describing the proposed annexation and pending election to be published in at least one newspaper of general circulation in the City in the manner provided by state election law. The advertisement shall be placed at least 14 days prior to the election. The advertisement shall contain: a description of the location of the property, size of

the property, its proposed zoning upon annexation, a general description of the potential land uses allowed, any required comprehensive plan text or map amendment or zoning ordinance text or map amendment, and where the City Council's evaluation of the proposed annexation may be found.

vi. Election procedures. Pursuant to ORS 222.130(1), the ballot title for a proposal for annexation shall contain a general description of the boundaries of each territory proposed to be annexed. The description shall use streets and other generally recognized features. Notwithstanding ORS 250.035, the statement of chief purpose shall not exceed 150 words. The City Attorney shall prepare the ballot title wording.

(a) Pursuant to ORS 222.130(2), the notice of an annexation shall be given as provided in ORS 254.095 and 254.205, except that in addition the notice shall contain a map indicating the boundaries of each territory proposed to be annexed.

(b) Pursuant to ORS 222.111(7), two or more proposals for annexation of territory may be voted upon simultaneously; however, each proposal shall be stated separately on the ballot and voted on separately.

vii. Setting of boundaries and proclamation of annexation. Upon approval by the voters of the proposed annexation, the City Council shall proclaim the results of the election and by ordinance set the boundaries of the area to be annexed by a legal description.

b. Minor Annexations.

1) A Minor Annexation is any annexation that meets all of the following characteristics.

i. Consists of only one parcel, except proposed annexations that consist of contiguous parcels in the same ownership.

ii. The area proposed for annexation is 1 acre or less. (Amended Ord. 918, March 18, 2010)

2) Approval procedures. The following procedures shall be followed in the review and approval of an application for a Minor Annexation:

i. An application for a Minor Annexation shall be filed with the City Planning Department.

ii. Planning Commission Proceedings. The Planning Commission shall hold a public hearing in accordance with the requirements of Section 17.12.090. Following the public hearing the Commission shall make findings of fact and conclusions as to whether the criteria of Section 17.12.210.4 below are met. Based on the findings of fact and conclusions the Planning Commission shall make a recommendation to the City Council regarding the approval of the application.

iii. City Council Proceedings. The City Council shall hold a public hearing in accordance with the requirements of Section 17.12.100. Following the public hearing, the City Council shall make findings of fact and conclusions as to whether the criteria of Section 17.12.210.4 below are met. If the Council finds that the criteria of Section 17.12.210.4 have been or will be met, the Council shall, by ordinance, shall set the boundaries of the area to be annexed by a legal description.

c. Health Hazard Annexation

The City may annex those areas constituting a health hazard in accordance with Oregon Revised Statutes, taking into consideration the ability of the City to provide necessary services. Annexation of areas constituting a health hazard is not subject to voter approval.

3. SUBMITTAL REQUIREMENTS. In order to be accepted as complete and be processed in a timely manner by the City, requests for annexation of territory shall include the following materials and information:

   a. Completed application forms as supplied by the City Planner.

   b. Three copies of a site plan, drawn to a scale of 1 inch equals not more than 50 feet, shown as a graphic scale, of the property for which the annexation is requested. The site plan shall depict the surrounding properties, neighboring streets and roads, and existing uses of the property. If the application for annexation is not accompanied by a concurrent application for site plan, subdivision, or other land use approval, three copies of a conceptual plan of proposed uses of the property subsequent to annexation. In addition, 18 reduced copies of the plan sized as 11 inches by 17 inches shall be submitted.

   c. A plan showing the boundary lines of the properties, certified by a professional land surveyor, and the approximate area of the properties in acres or square feet.

   d. A legal description of the property, meeting the requirements of ORS 308.225.

   e. A narrative statement fully explaining the request and fully addressing the criteria for approval of an annexation.

4. APPROVAL CRITERIA. In order to approve an application for annexation, the following affirmative findings concerning the action must be made by the decision authority:

   a. Need exists in the community for the land proposed to be annexed.

   b. The site is or is capable of being serviced by adequate City public services including such services as may be provided subject to the terms of a contract annexation agreement between the applicant and the City.

   c. The proposed annexation is property contiguous to the existing City limits.

   d. The proposed annexation is compatible with the character of the surrounding area and complies with the urban growth program and policies of the City of Stayton.

   e. The annexation request complies, or can be made to comply, with all applicable provisions of state and local law.

   f. If a proposed contract annexation, within the terms and conditions of the contract the cost of City facility and service extensions to the annexed area shall be calculated by the Public Works Director.

5. ZONING OF ANNEXED TERRITORY. All lands that are annexed to the City shall be zoned in accordance with the designation of the property in the Comprehensive Plan. The specific zone assigned to the land being annexed shall be determined by the City Council in accordance with the proposed uses of the land and the needs identified by the buildable lands analysis in the Comprehensive Plan. This requirement does not prohibit an application to amend the Comprehensive Plan Map concurrent with the application for annexation. (Amended Ord. 949, April 17, 2013)

6. CONFORMANCE WITH CONCEPTUAL PLAN. Development of the property after annexation shall be in substantial conformance with any conceptual plan submitted with the application for annexation. For the purposes of this section, development is in substantial conformance with a conceptual plan if:

   a. The development is generally consistent with the character and intent of the conceptual plan;

   b. The number and types of housing units are generally consistent with those presented in the conceptual plan;

   c. The impacts from the development, including but not limited to, noise, vibration, dust, odor, or fumes, detectable at the property line will not exceed the maximums typical for the categories of uses proposed in the conceptual plan;

   d. The number and types of vehicular trips to and from the site will not exceed the maximums typical for the categories of uses proposed in the conceptual plan; and

   e. The amount and types of outside storage, loading, and parking will not exceed the maximums typical for the categories of uses proposed in the conceptual plan.

7. NOTICE TO COUNTY AND STATE.

   a. Within 10 working days after enactment of the ordinance approving the annexation, the City Recorder shall provide by certified mail to all public utilities, electric cooperatives and telecommunications carriers operating within the City each site address to be annexed as recorded on county assessment and tax rolls, a legal description and map of the proposed boundary change, and a copy of the ordinance approving the annexation.

   b. Within 10 days from the effective date the ordinance approving the annexation, the City Recorder shall provide to the Marion County Clerk and County Assessor a report containing a detailed legal description of the new boundaries established by the City.

   c. Within 14 days of enactment of the ordinance approving the annexation, the City Recorder shall transmit to the Oregon Secretary of State:

      1) A copy of the ordinance proclaiming the annexation, including a legal description of the territory to be annexed.

      2) An abstract of the vote, if a major annexation. The abstract of the vote shall show the whole number of electors voting on the annexation, the number of votes cast for annexation, and the number of votes cast against annexation.

      3) A copy of the statement of consent by electors or landowners in the territory annexed.

   d. Within 30 days of enactment of an ordinance annexing territory into the City, the City Recorder shall transmit to the Marion County Assessor and the Oregon Department of Revenue the legal description of the boundary change or proposed change and an accurate map conforming to the requirements of ORS 308.225(2). (Amended Ord. 901, April 16, 2008)

17.12.220 SITE PLAN REVIEW

1. DEFINITION. A site plan review is a detailed examination of the physical characteristics of a proposed development or improvement to property prior to any site preparation, tree removal, or development, with special attention given to the design of the development or improvement and the potential impacts on adjoining properties or land uses. A site plan review requires the evaluation of specific criteria as cited herein.
2. METHOD OF ADOPTION.
   a. Site plans shall be adopted pursuant to the requirements of Sections 17.12.070 through 17.12.100. The decision shall be made in accordance with this Title. (Amended Ord. 1032, June 19, 2019)
3. REQUIREMENTS FOR SITE PLAN REVIEW. Site plan review approval is required when:
   a. A site plan review overlay district is imposed by the City Council as a condition of rezoning the parent or principal zone of a given property or properties.
   b. Made a condition of approval of a conditional use.
   c. Otherwise required by specific provisions of this Title. (Amended Ord. 1032, June 19, 2019)
   d. (Repealed, Ord. 898, August 20, 2007)
   e. Improvements to existing development causing more than a 15% increase in traffic or parking needs.
   f. Improvements exceeding 15% of existing development by area, not including the area of internal roadways, parking and loading areas, and landscaping.
4. SUBMITTAL REQUIREMENTS. In order to be accepted as complete and processed in a timely manner by the City, requests for approval of site reviews shall include the following materials and information:
   a. Completed application forms as supplied by the City Planner.
   b. A site plan, drawn to a scale of 1 inch equals not more than 50 feet, showing the property for which the site plan review is requested. The site plan shall show, or be accompanied by, the following: (Ord. 898, August 20, 2007; Amended Ord. 1032, June 19, 2019)
      1) The name of the person who prepared the plan.
      2) A north point, graphic scale, and date of the proposed site plan.
      3) Topography of the site with contour intervals of not more than 2 feet.
      4) The names and addresses of the landowners, applicant, and the engineer, surveyor, land planner, landscape architect, or any other person responsible for designing the proposed site plan.
      5) The tax map number (township, range and section) and lot number of all properties included in the proposed site plan.
      6) The boundary lines of the properties as certified by a professional land surveyor and approximate area of the properties in acres or square feet.

7) The location, widths, and names of existing or platted streets or other public ways (including easements) within or adjacent to the tract, existing permanent buildings and any addresses for the buildings.

8) The location of existing sewage systems, storm water systems and water mains, culverts, drainage ways, or other underground utilities or structures within, or immediately adjacent to the property.

9) A preliminary storm water management plan for the development, prepared in accordance with the Public Works Design Standards. (Amended Ord. 1032, June 19, 2019)

10) The locations of proposed sewer disposal and water supply systems in accordance with the City's Wastewater and Water Master Plans.

11) The locations of any prominent natural features such as: water courses (including direction of their flow), wetlands, rock outcroppings, and areas subject to flooding or other natural hazards.

12) A landscaping plan prepared in accordance with Section 17.20.090.3

13) The location of parking facilities for the site including any parking areas shared with adjacent uses by reciprocal access agreement.

14) A Traffic Impact Analysis (TIA) or Transportation Assessment Letter as required by Section 17.26.050

15) The location of any proposed structures including the ground coverage, floor area and proposed use. Building elevations drawings shall be submitted to the extent necessary to show compliance with the requirements of Sections 17.20.190, 17.20.200, 17.20.220, and 17.20.230. (Amended Ord. 913, September 2, 2009; Amended Ord. 1032, June 19, 2019)

16) The location and dimensions of open storage areas or outdoor storage yards.

17) The size location, direction and intensity of illumination of all signs and a lighting plan that includes.

    a) The location of all existing and proposed exterior lighting fixtures.

    b) Specifications for all proposed lighting fixtures including photometric data, color-rendering index of all lamps, and other descriptive information of the fixtures.

    c) Proposed mounting height of all exterior lighting fixtures

    d) Analyses and illuminance level diagrams showing that the proposed installation conforms to the light level standards of Section 17.20.170.

    e) Drawings of all relevant building elevations showing the fixtures, the portions of the walls to be illuminated, the illuminance levels of the walls, and the aiming points for any remote light fixtures.

18) The location of any free standing signage and the proposed size(s) and dimension(s).

19) The location of any proposed screening including fences, walls, hedges and berms.

20) When any development activity is proposed on a location a slope of 20% or steeper, a geotechnical study, prepared by a licensed geologist or registered engineer with experience in geotechnics, determining the suitability of the site for construction considering the possibility of increased erosion potential, slope stability, slippage and other concerns. (Added Ord. 949, April 17, 2013)

c. A narrative statement fully explaining the request and fully addressing the criteria for approval of site plan review.

5. APPROVAL CRITERIA. The following criteria must be demonstrated as being satisfied by the application:

   a. The existence of, or ability to obtain, adequate utility systems (including water, sewer, surface water drainage, power, and communications) and connections, including easements, to properly serve development in accordance with the City's Master Plans and Public Works Design Standards**.** Where an adopted Master Plan calls for facilities larger than necessary for service to the proposed use, the developer shall install the size facilities called for in the Master Plan, and shall be provided credit for the excess costs in accordance with SMC 13.12.245. (Amended Ord. 913, September 2, 2009; Amended Ord. 1032, June 19, 2019)

   b. Provisions have been made for safe and efficient internal traffic circulation, including both pedestrian and motor vehicle traffic, and for safe access to the property for vehicles, as well as bicycle and pedestrians, from those public streets which serve the property in accordance with the City's Transportation System Plan and Public Works Design Standards. (Ord. 898, August 20, 2007; Amended Ord. 1032, June 19, 2019; Amended Ord. 1034, July 17, 2019)

   c. Provision has been made for all necessary improvements to local streets and roads, including the dedication of additional right-of-way to the City and/or the actual improvement of traffic facilities to accommodate the additional traffic load generated by the proposed development of the site in accordance with Chapter 17.26, the City's Transportation System Plan, and Public Works Design Standards. Improvements required as a condition of approval shall be roughly proportional to the impact of the development on transportation facilities. Approval findings shall indicate how the required improvements are directly related to and are roughly proportional to the impact of development. (Amended Ord. 1032, June 19, 2019; Amended Ord. 1034, July 17, 2019)

   d. Provision has been made for parking and loading facilities as required by Section 17.20.060.

   e. Open storage areas or outdoor storage yards shall meet the standards of Section 17.20.070.

   f. Site design shall minimize off site impacts of noise, odors, fumes or impacts.

   g. The proposed improvements shall meet all applicable criteria of either Section 17.20.190 Multi-family Residential Design Standards, Section 17.20.200 Commercial Design Standards, Section 17.20.220 Downtown Development Design Standards, or Section 17.20.230 Industrial Design Standards. (Amended Ord. 902, May 7, 2008; Amended Ord. 1032, June 19, 2019)

   h. (Repealed Ord. 913, September 2, 2009)

   i. (Repealed Ord. 913, September 2, 2009)

   j. Landscaping of the site shall prevent unnecessary destruction of major vegetation, preserve unique or unusual natural or historic features, provide for vegetative ground cover and dust control, present an attractive interface with adjacent land uses and be consistent with the requirements for landscaping and screening in Section 17.20.090. (Ord. 898, August 20, 2007)

   k. The design of any visual, sound, or physical barriers around the property such as fences, walls, vegetative screening, or hedges, shall allow them to perform their intended function and comply with the requirements in Sections 17.20.050 and 17.20.090. (Ord. 898, August 20, 2007)

l. The lighting plan satisfies the requirements of Section 17.20.170.

m. The applicant has established continuing provisions for maintenance and upkeep of all improvements and facilities.

n. When any portion of an application is within 100 feet of North Santiam River or Mill Creek or within 25 feet of Salem Ditch, the proposed project will not have adverse impact on fish habitat. (Added Ord. 949, April 17, 2013)

o. Notwithstanding the above requirements the decision authority may approve a site plan for a property on the National Register of Historic Places that does not meet all of the development and improvement standards of Chapter 17.20 and the access spacing standards of Chapter 17.26 provided the decision authority finds that improvements proposed are in conformance with Secretary of the Interior's Standards for Treatment of Historic Properties, the site will provide safe ingress and egress to the public street system, and that adequate stormwater management will be provided. (Added Ord. 1032, June 19, 2019)

6. IMPOSITION OF RESTRICTIONS AND CONDITIONS.

a. The decision authority may prescribe restrictions or limitations for the proposed site plan review approval as it deems necessary to fulfill the purpose and intent of the code. Such restrictions or limitations shall be based on evidence and analysis presented to or generated by the decision authority during the course of its evaluation of the request, and shall be made a part of the approval action. Conditions may limit the time or duration of the use. (Ord. 898, August 20, 2007)

b. To ensure that required public improvements are made in a timely and acceptable manner, the applicant(s) may be required by the City to provide acceptable financial assurance to the City consistent with the requirements of Section 17.20.120.

c. A violation of any such condition(s) or limitation(s) shall constitute a violation of this Title. (Amended Ord. 1032, June 19, 2019)

17.12.230 HISTORIC PRESERVATION PROCEDURE

1. PURPOSE. This procedure shall apply to historic resources listed in the City of Stayton Historic Structures Inventory of sites designated within the Comprehensive Plan. The intent of this procedure is to provide a means of designating and protecting historic resources in a manner complying with state land use planning requirements.
2. INCLUSION OR REMOVAL OF HISTORIC SITES OR STRUCTURES. The addition or removal of sites or structures to those currently designated in the Comprehensive Plan shall be by plan amendment and shall follow the procedures specified in Section 17.12.170. (Ord. 898, August 20, 2007)

   Proceedings for the inclusion or removal of a property within the Historic Structures Inventory may be initiated by motion of the Planning Commission, resolution of the City Council, or a property owner, including contract purchaser, of the site or structure as follows:

   a. The applicant or City may initiate proceedings for designation or withdrawal by submitting an application to the City Planner.

   b. The application shall contain the following minimum information:

      1) The owner's name and address.

      2) The address and/or the assessor map number and tax lot number of property proposed for designation.

      3) A statement explaining the following:

         a) Reasons why the proposed landmark should be designated, based on the criteria set forth under Section 17.12.230.2.d.

         b) The potential positive and negative effects and financial impacts, if any, which designation of the proposed landmark would have on the property owner, residents or other land owners in the neighborhood.

   c. The decision authority shall hold a public hearing on any proposed inclusion in or removal from the Comprehensive Plan's designation of historic inventory sites pursuant to the procedures and notification requirements of this title. The City shall take into account the desires of the owners of property with respect to its designation as an historic landmark. However, it is not the intent, under this provision, to require owner consent in the designation of properties as historic landmarks.

   d. The decision authority may designate a building, structure, or site as an historic landmark upon findings that the proposed historic landmark meets one of the following criteria:

      1) It is included in the National Register of Historic Places; or

      2) It retains physical integrity in original design, condition, setting and is characterized by any one of the following:

         a) It exemplifies or reflects special elements of the City's cultural, social, economic, political, aesthetic, engineering, or architectural history.

         b) It is identified with persons or events significant in local, state, or national history.

         c) It embodies distinctive characteristics of a style, type, or method of construction, or is a valuable example of the use of indigenous materials or craftsmanship.

d) It is representative of the notable work of a builder, designer, or architect**.**

e) It is an open waterway of historical interest and significance to the community.

e. The decision authority may remove a building, structure, or site from the historic landmarks inventory upon findings that the building, structure, or site meets any one of the following criteria: (Ord. 898, August 20, 2007)

1) The building or portion thereof is in such condition that it is unfeasible to preserve or restore it, taking into consideration building code requirements and the economic feasibility of preserving the structure.

2) The structure has been damaged in excess of 70 percent of its assessed value due to fire, flood, wind, or other natural or man-caused disaster**.**

3) The resource no longer meets any of the criteria for designation as an historic landmark set forth in Section 17.12.170.2.d.

f. The age of the proposed landmark alone shall not be sufficient grounds for designation on or not removing it from the inventory. (Ord. 898, August 20, 2007)

3. ORDINARY MAINTENANCE AND REPAIR. Nothing in this article shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature on any property covered by this section that does not involve a change in design, material, or external appearance thereof. Nor does this article prevent the construction, reconstruction, alteration, restoration, demolition, or removal of any such feature when the building official determines that such emergency action is required for the public safety due to an unsafe or dangerous condition. Prior to such emergency action, notification shall be provided to the Planning Commission.

4. DUTY TO KEEP IN GOOD REPAIR. The owner of a designated historic resource shall keep such resource in good repair.

5. PERMITS. An historic modification permit is required for alteration, demolition, or relocation of a structure or site which is a designated historic resource. Actual physical modification of the structure or site may not take place without the issuance of a construction or demolition permit subsequent to approval of the historic modification permit.

   Alteration as governed by this section means any addition to, removal from, or change in the appearance of any part or portion of a designated historic resource.

6. REVIEW PROCEDURE. The decision shall be made pursuant to the procedures of this chapter.

7. DECISION CRITERIA. Decisions on applications for modification of an historic site or structure shall be based on applicable state and local codes and ordinances related to building, fire, and life and safety and the following standards:

   a. Alteration.

   1) The distinguishing original qualities or character of a building, structure, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.

   2) All buildings, structures and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance shall be discouraged.

3) Changes which may have taken place in the course of time are evidence of the history and development of a building, structure, or site and its environment. These changes may have acquired significance in their own right and this significance shall be recognized and respected.

4) Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure, or site shall be treated with sensitivity.

5) Deteriorated architectural features shall be repaired rather than replaced whenever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features substantiated by historic, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.

6) Every reasonable effort shall be made to protect and preserve archaeological resources affected by or adjacent to any project.

7) Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural, or cultural material and such design is compatible with the size, scale, color, material, and character of the property, neighborhood, or environment.

8) Whenever possible, new additions or alterations to structures shall be done in such a manner that if such additions or alterations where to be removed in the future, the essential form and integrity of the structure would be repaired.

9) If an historical ditch, alterations shall not be permitted which would significantly impact the historical character of the site, including waterway and shore lands.

b. Demolition. Decisions on applications for permits to demolish a designated historic structure shall be based on the following criteria:

1) The state of repair of the building and reasonableness of the cost of repair.

2) Whether a program or project may exist that could result in preservation of the structure.

3) Unnecessary and substantial hardship to the applicant that may result from denial or conditions of approval.

4) Effects on the public welfare if the structure were demolished considering the significance of the structure and the economic, cultural, and energy consequences of demolition.

5) Whether any other reasonable alternative exists.

c. Relocation. Decisions on applications for permits to relocate a designated historic resource shall be based on the following:

1) Effects of the relocation on the historic and architectural integrity of the structure.

2) Compatibility with the designated historic resource of the surrounding of the proposed location.

3) Other factors considered appropriate by the decision authority.

8. LAND USE ACTION IMPACTS ON HISTORIC RESOURCES. Potential impacts to historic resources resulting from proposed land use actions shall be considered as part of the review on conditional uses, variances, and zone changes. Review and decision on such applications shall be based on:
   a. The state of repair of the building.
   b. The reasonableness of the cost of restoration and repair.
   c. The purpose of preserving such designated historical buildings or sites.
   d. The character of the neighborhood.
   e. Other factors considered appropriate by the decision authority.
9. EXEMPTION TO DEMOLITION PERMIT REQUIREMENTS. If the structure for which the demolition permit request has been filed has been damaged in excess of 70% of its assessed value due to fire, flood, wind, or other natural or man-caused disaster, a demolition permit may be approved by staff without processing the request as set forth in this chapter.

17.12.240 HISTORIC OVERLAY DISTRICT PROCEDURES

1. PURPOSE. The review process for the historic downtown overlay districts shall serve not only as a reference for preserving the historic character of the downtown area, but are also a guide for new development. The objective in identifying historic districts is to retain and maintain buildings and to support development that will result in a compact town center that is economically healthy and promotes a wide variety of uses.
2. DESIGN REVIEW CRITERIA - STATEMENT OF INTENT. The design review criteria are intended to provide a frame of reference for the applicant in the development of site, building and landscape plans, as well as providing the City with a means of reviewing proposed plans. These criteria are intended to be flexible requirements that allow creativity. The specification of one or more architectural styles is not intended by these criteria.
    a. It is not the intent, as part of the design review process**,** to approve projects which exceed specific developmental standards provided for by Stayton Municipal Code (SMC) Title 17.
    b. Potential full development of a site, based solely on the standards of the zoning ordinance (e.g., building height, building setback) may be inappropriate for a given site. It is for this reason that discretion, through the application of the design review criteria may require that the building or site may not realize the potential for full build out as authorized by this title. The basic components of this section are:
        1) Site design. Only the exterior façade.
        2) Architectural design. Only the exterior façade.
        3) Streetscape/landscape design.
3. DECISION AUTHORITY
    a. The decision authority shall be as follows:
        1) Staff Decisions: City staff shall be empowered to review, evaluate and render decisions on structural and or façade alterations affecting less than 10% of the exterior of any given wall of a building.
        2) Planning Commission decisions: The Planning Commission shall be empowered to review, evaluate and render decisions on the following applications:
            a) Alterations. Alterations that exceed 10% of the exterior of a building.
            b) New construction. Any structure that requires a building permit. The Planning Commission shall hold a public hearing on any proposed request, pursuant to procedures and notification requirements of this title.
        3) City Council decisions. The Council shall be empowered to review and render final decisions on all Planning Commission and City staff decisions. The Council shall hold a public hearing on any proposed request and pursuant to procedures and notification requirements of this title.
4. ORDINARY MAINTENANCE AND REPAIR. Nothing in this article shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature on any property covered by this section that does not involve a change in design, material, or external appearance thereof. Nor does this article prevent the construction, reconstruction, alteration, restoration, demolition, or removal of any such feature when the building official determines

that such emergency action is required for the public safety due to an unsafe or dangerous condition. Prior to such emergency action, notification shall be provided to the Planning Commission and City Council.

CHAPTER 17.16
ZONING

Adopted Ord. 894, January 2, 2007
Amended Ord. 898, August 20, 2007
Amended Ord. 901, April 16, 2008
Amended Ord. 902, May 7, 2008
Amended Ord. 904, June 16, 2008
Amended Ord. 907, January 14, 2009
Amended Ord. 913, September 2, 2009
Amended Ord. 930, November 18, 2010
Amended Ord. 949, April 17, 2013
Amended Ord. 962, January 1, 2014
Amended Ord. 963, December 18, 2013
Amended Ord. 996, August 17, 2016
Amended Ord. 998, August 31, 2016
Amended Ord. 1001, December 21, 2016
Amended Ord. 1016, April 18, 2018
Amended Ord. 1035, September 18, 2019
Amended Ord 1037, November 6, 2019
Amended Ord 1060, May 17, 2023

CHAPTER 17.16

ZONING

SECTIONS

17.16.010 PURPOSE

This chapter is adopted for the purpose of promoting the health, safety, peace, comfort, convenience, economic well-being, and general welfare of the City, and not limited to, but specifically to achieve the following designated objectives:

1. To protect the character and values of land and buildings and economic stability of sound residential, business, and industrial districts, and to enhance the quality of the desired environment in them by:
   a. Preventing the intrusion of inharmonious uses**.**
   b. Preventing the encroachment on desirable open space appurtenant to each district**.**
   c. Providing for safe and efficient movement of existing and future traffic**.**
   d. Assuring the provision of necessary off-street parking space for vehicles.
2. To provide for additional growth and development in a manner appropriate to the character of the City and which will contribute to the economic stability of the City and strengthen the basis of its private and governmental economy.
3. To assure that future development occurs in an orderly manner and is relatively compact to provide for economy and efficiency in public services and utilities and to protect the City from costs which may be incurred when unsuitable, scattered, or premature development occurs.
4. To assure satisfactory physical relationships between districts of different use characteristics and among uses of various types and to minimize conflicts among land uses.
5. To minimize traffic hazard, traffic congestion, and the conflict between land uses and the movement of traffic.
6. To promote within various City areas an attractive and pleasing appearance and to aid in the development of the City by assuring that development in areas of higher density or of commercial or industrial use and along appropriate routes of travel is neat, orderly, and attractive.
7. To control density and intensity of land use to assure lack of congestion; adequate light, air and privacy; convenience of access to property; and to assure that the economic benefits incidental to zoning will be derived from a broader base area wide, thereby enlarging the opportunity for private investment.

17.16.020 BASIC PROVISIONS

1. COMPLIANCE WITH CODE REQUIRED. A lot may be used and a structure or part of a structure constructed, reconstructed, altered, occupied, or used only as this title permits, and then only after applying for and securing all permits and licenses required by all applicable laws.

2. CLASSIFICATION OF ZONES. In order to designate and regulate the size and use of structures and lands within the City, the City is hereby divided into the following zoning districts:

   Residential
   - LD Low Density Residential
   - MD Medium Density Residential
   - HD High Density Residential

   Downtown (Added Ord. 902, May 7, 2008)
   - CCMU Central Core Mixed Use (Added Ord. 902, May 7, 2008)
   - DCMU Downtown Commercial Mixed Use (Added Ord. 930, November 18, 2010)
   - DRMU Residential Mixed Use (Added Ord. 902, May 7, 2008)
   - DMD Downtown Medium Density Residential (Added Ord. 902, May 7, 2008)

   Commercial
   - CR Commercial Retail
   - CG Commercial General
   - ID Interchange Development
   - CP Commerce Park (Added Ord. 998, August 31, 2016)

   Industrial
   - IC Industrial Commercial
   - IL Light Industrial
   - IA Industrial/Agricultural

   Public
   - P Public/Semi Public

   Overlay Districts
   - NR Natural Resource Overlay District
   - FP Flood Plain Overlay District

3. OFFICIAL ZONING MAP

   a. The zones and their boundaries as specified in this title are shown upon a map which is designated as the "Official Zoning Map" of the City and which is hereby adopted as part of this code.

   b. Such map shall constitute the official record of the zones within the City as of August 15, 2019 and thereafter as the map may be modified in accordance with the provisions of this title. (Amended Ord 949, April 17, 2013; Amended Ord 1035, September 18, 2019)

   c. The official zoning map or its subsequent amendments shall be dated with the effective date of the ordinance which adopts the map or map amendments and signed by the City Recorder.

4. ZONING OF ANNEXED LAND

   All lands which may hereafter be annexed to the City shall be zoned in conformance with the designation of the property on the Comprehensive Plan.

17.16.030 GENERAL REQUIREMENTS

1. MINIMUM REQUIREMENTS. In interpreting and applying this Chapter, the provisions shall be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, and general welfare.
2. MINIMUM STREET WIDTH. All street rights-of-way shall conform to requirements in Chapter 17.26.
3. LOTS ABUTTING A PARTIAL STREET
   a. No building permit shall be issued for a building or structure on a lot which abuts that side of a partially dedicated street that has not yet been dedicated or condemned.
   b. This provision shall not be construed as being in lieu of or waiving any subdivision or partitioning requirement of this or any other section of this title.
4. STREET DEDICATIONS AND PUBLIC IMPROVEMENTS. Street dedications and public improvements are to be installed in accordance with the provisions of Chapters 12.04 and 12.08.
5. BUILDINGS TO BE ACCESSIBLE TO PUBLIC STREET. Every dwelling (or other building) shall be situated on a lot having direct access by abutting upon:
   a. A public street
   b. City-approved easement in accordance with 17.26.020.4.f. An easement shall not serve more than 4 dwelling units.

17.16.040 GENERAL ADMINISTRATIVE

1. INTERPRETATIONS OF ZONING CODE

   a. When, in the administration of this title, there is doubt regarding its intent or provisions, the City Planner shall request an interpretation of the provisions by the Planning Commission. The Planning Commission shall issue an interpretation of the question only if the Planning Commission has determined that such interpretation is within their power and is not a legislative act. (Amended Ord. 898, August 20, 2007)

   b. Any interpretation of the general provisions of this chapter shall be as specified in Section 17.04.040. Interpretations of zone boundaries and of allowed uses within specific zoning districts shall take place as specified in Sections 17.16.040.2 and 17.16.040.3.

2. INTERPRETATION OF ZONING BOUNDARIES. Where uncertainty exists with respect to the boundaries of the various districts as shown on the official zoning map, the following rules shall apply:

   a. Where the districts designated on the zoning map are bounded approximately by street or alley lines, the centerline of the street or alley shall be construed to be the boundary of such district.

   b. Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be block lines, and where the districts designated on the zoning map are bounded approximately by lot lines, said lot lines shall be construed to be the boundary of such districts unless said boundaries are otherwise indicated on the map.

   c. Where the district boundaries appear to cross non-subdivided parcels on the zoning map, the district boundaries shall be determined by use of the scale contained on such map.

3. USES NOT SPECIFICALLY COVERED. The City Planner may permit in a zone any use not referenced as a permitted or conditional use in any district listed in this chapter, if he finds that the proposed use is in general keeping with the uses authorized in such district as measured by criteria in this section. In making such an interpretation, the Planner shall consider the following factors:

   a. Size, scale, configuration, bulk, and other characteristics of the requested use.

   b. Physical and operational similarity of the use to uses now allowed in the zone.

   c. Potential on-site and off-site impacts of allowing the use (traffic, noise, odors, etc.) as compared to uses now allowed in the zone.

   The Planner shall issue written findings reporting the results of this interpretation. By use of this procedure the Planner shall not permit a use that is allowed in another zone. All uses authorized by this process shall, prior to development, be subject to site plan review approval.

4. CHANGE OF USE

   a. Permit Required. The change of use of a building, a portion of building, or a lot shall require a permit from the City Planner.

   b. Application Requirements.

      1) An application for a change of use permit shall be submitted on a form prescribed by the City.

a) Within 5 days of submittal the City Planner shall determine whether the application is complete.

b) Within 10 days of submission of a complete application, the City Planner shall either: approve, approve with conditions, or deny the application.

c) The decision shall be issued in writing.

2) Prior to approval of the application for a change of use permit, the City Planner shall determine that the proposed use is a permitted use in the zone in which the use is proposed. If the proposed use is a conditional use, the City Planner shall inform the applicant and provide the applicant with an application for a Conditional Use. If the proposed use is not permitted in the zone, the City Planner shall deny the application.

3) Prior to approval of the application for a change of use permit, the City Planner shall determine that the standards of Section 17.20.060.7.a will be met.

17.16.050 NON-CONFORMANCE

The standards and regulations of this code embody the City's vision for the future development of the City. It is the intent of this Code that non-conformances be allowed to continue but that with future development, be brought into conformance with the standards and regulations. (Added Ord. 913, September 2, 2009)

1. CONTINUATION OF LAWFUL USE. Any non-conforming structure, lot, use or development legally existing on February 1, 2007, may be continued but may not be extended, expanded, reconstructed, enlarged, or structurally altered except as specified as follows:
2. REPAIR AND MAINTENANCE. Except as otherwise provided in this chapter, non-conforming developments and premises occupied by non-conforming uses may be repaired and maintained without restriction.
3. NON-CONFORMING STRUCTURES.
    a. Restoration or Reconstruction. Any non-conforming structure which is hereafter damaged or destroyed by fire or any cause other than the willful act of the owner or his agent, may be restored or reconstructed within 1 year of the date of the damage or destruction provided its non-conformity is not increased and it complies with the building code.
    b. Alteration. Non-conforming structures may be altered or enlarged provided the addition or alteration is no more nonconforming than the existing structure. If the addition or alteration is within the required side or rear setbacks, the applicant shall present a written statement from the Fire Chief that the expansion will not cause a fire or safety hazard. (Amended Ord. 913, September 2, 2009)
4. NON-CONFORMING USES
    a. Discontinuation of Use. If a non-conforming use is discontinued for more than 1 year, or superseded by a conforming use, the non-conforming use shall not be resumed. Any subsequent use shall conform to the underlying zoning district.
    b. Expansion. Except for single family detached dwellings, a non-conforming use shall not be extended into a different or greater area of a lot. Single family detached dwellings that are non-conforming uses may be enlarged as long as the dimensional requirements of the district in which they are located are met. (Amended Ord. 1016, April 18, 2018)
5. NON-CONFORMING LOTS
    a. Vacant Non-conforming Lots.
        1) A vacant non-conforming lot of record may be built upon provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership at the time of or since adoption or amendment of this code. Proposed structures on any nonconforming lot larger than 7,000 square feet in area or with a lot width of 70 feet or more shall meet all the setback and development standards. The side and rear setback requirements of Section 17.16.070.3 may be reduced by 50% for lots that are 7,000 square feet or less in area or with a lot width of 70 feet or less. In addition, a legally existing nonconforming corner lot may have a front setback of only 75% of that required by Section 17.16.070.3 on the front which does not have vehicular access directly to a street. (Amended Ord. 913, September 2, 2009)
        2) If two or more contiguous lots of record are in same or common ownership at the time of or since adoption or amendment of this code, and if all or some of the lots do not meet the

dimensional requirements of this code, the lots shall be combined to the extent necessary to meet the dimensional standards of the district in which it is located.

b. Built Nonconforming Lots. A structure on a nonconforming lot may be expanded or altered provided those changes can meet all the setback and development standards.

6. NONCONFORMING DEVELOPMENT. A nonconforming development shall not be substantially altered or expanded unless the development complies with all applicable standards of this code. In determining whether an alteration or expansion of a nonconforming development is substantial, the decision authority shall consider the square footage of the alteration in comparison to the total square footage of the development, the value of the alteration compared to the total value of the development, and the extent to which the portion of the development is leased property. (Amended Ord. 913, September 2, 2009)

17.16.060 DISTRICT PURPOSES

1. LOW DENSITY RESIDENTIAL. To provide for single family dwelling units and their accessory uses and, with conditional use approval, other uses compatible with single family dwelling units. Density shall not exceed 6 units per acre.
2. MEDIUM DENSITY RESIDENTIAL. To provide for single family, duplex, tri-plex, and mobile home parks, and other compatible uses with conditional approval. Density of development shall not exceed 12 dwelling units per acre.
3. HIGH DENSITY RESIDENTIAL. To provide for multifamily residential units, other compatible living units, their accessory structures and, with conditional use approval, other compatible uses. The minimum density shall be 13 units per acre. There shall be no upper limit to the maximum allowable dwelling density.
4. DOWNTOWN MEDIUM DENSITY RESIDENTIAL. To provide for compact residential development in proximity to the downtown core, subject to design requirements to assure a high level of quality. Density of development shall not be less than 10 dwelling units per acre and not exceed 15 dwelling units per acre. (Added Ord. 902, May 7, 2008)
5. COMMERCIAL RETAIL. To provide for retail, service, office, and other commercial activities, accessory uses and, with conditional use approval, other compatible uses. Not intended for exclusive residential uses although where the ground floor is devoted exclusively to commercial activities, residential units may be located on higher floor(s). (Ord. 898, August 20, 2007)
6. COMMERCIAL GENERAL. To provide for heavier commercial activities**,** their accessory structures, and other compatible uses. Not intended for exclusive residential uses although where the ground floor is devoted exclusively to commercial activities, residential units may be located on higher floor(s). (Ord. 898, August 20, 2007)
7. INTERCHANGE DEVELOPMENT. To assure that land located within 1,500 feet of a highway entrance/exit ramp is available for uses that are oriented to providing goods and services oriented to the traveling public. In providing for the location of highway-oriented service firms, it is essential that the principal function of the intersection (the carrying of traffic to and from the highway in a safe and expeditious manner) be preserved.

7-A COMMERCE PARK. To provide for a mix of retail and other commercial uses as well as small-scale light manufacturing. Residential uses are permitted, provided they are part of live-work development. (Added Ord. 998, August 31, 2016)

8. CENTRAL CORE MIXED USE. To promote compact commercial and mixed commercial-residential development within the central downtown area of the city. This district encompasses the existing core area of the downtown, centered on 3rd Avenue. (Added Ord. 902, May 7, 2008)

8-A DOWNTOWN COMMERCIAL MIXED USE. To promote compact commercial and mixed commercial-residential development the portion of the 2nd Avenue that has traditionally had a concentration of automobile repair and other auto-oriented businesses. Residential uses are permitted, ranging from 12 - 30 units per acre, including attached residential structures, condominiums, and townhouses, but also allowing appropriate commercial uses and mixed use developments. (Added Ord. 930, November 18, 2010)

9. DOWNTOWN RESIDENTIAL MIXED USE. To provide opportunities for residential, commercial and mixed use developments as part of the downtown area. This designation is applied to property north, west and east of the 3rd Avenue central core area, intended to become neighborhoods made up mainly of moderate-density residential uses, ranging from 12 - 30 units

per acre, including attached residential structures, condominiums, and townhouses, but also allowing appropriate commercial uses and mixed use developments. (Added Ord. 902, May 7, 2008)

10. INDUSTRIAL COMMERCIAL. To provide for a mixing of light industrial activities and service related commercial activities in a specific area to reduce conflicts between industrial and general commercial uses.
11. LIGHT INDUSTRIAL. To provide for light manufacturing, assembly, or storage areas that will not conflict with less intensive uses.
12. INDUSTRIAL AGRICULTURE. To provide for the retention of agricultural activities where such activities are compatible or desirable within the urban environment.
13. PUBLIC/SEMI-PUBLIC. To allow for the location and use of lands, buildings, and facilities that are used by the public in a manner that will not unreasonably disrupt or alter areas of the community.
14. NATURAL RESOURCES OVERLAY DISTRICT. To protect aquifers**,** the natural riparian area adjacent to the North Santiam River, Mill Creek, Stayton Ditch, Salem Ditch, and Lucas Ditch. The overlay district establishes siting criteria and operating standards that minimize environmental impacts.
15. FLOODPLAIN OVERLAY.DISTRICT. To protect lives and property from the periodic inundation of flood waters and to comply with federal flood control regulations as expressed in the National Flood Insurance Program.

17.16.070 DISTRICT REGULATIONS

1. PERMITTED AND CONDITIONAL USES. The land uses permitted in each district are shown in Table 17.16.070.1. When a property is in an overlay zone, the stricter regulations of the two zones shall apply.

P = Permitted Use
C = Conditional Use
S = Permitted Use after Site Plan Review for new construction or expansion of an existing structure. See Section 17.16.040.4 for existing structures
C/S = Conditional Use after Site Plan Review
= Prohibited Use

Table 17.16.070.1 Permitted Land Use

		LD	MD	HD	DMD	CR	CG	CP	CCMU	DCMU	DRMU	ID	IC	IL	IA	P
	RESIDENTIAL USES															
1	Single-Family Detached Dwellings [12]	P[1]	P[1]		P[1]	S[2]	S[2]									
1a	Single-Family Attached Dwellings			S[1]	S[1]	S[2]	S[2]		C/S[1]	S[1]	S[1]					
2	Manufactured Home [12]	P[1]	P		P[1]											
3	Duplex		P[13]		P[13]	S[2]	S[2]		C[1]	P[1]	P[1]					
4	Triplex		S[1]		S[1]	S[2]	S[2]		C/S[1]	S[1]	S[1]					
5	Multi-Family Dwellings			S[1]	S[1]	S[2]	S[2]		C/S[1]	S[1]	S[1]					
6	Mobile Home Park		S	S												
7	Dwelling as a caretaker residence													S		
7a	Dwelling as part of a live-work unit					S	S	S	S	S	S		S	S		
8	Residential Group Home	P	P		P[1]											
9	Residential Facilities		S	S	S				C[1]	P[1]	P[1]					
	COMMERCIAL USES															
	Retail Trade															
10	Retail Stores not specifically listed below					S	S	S	S	S	S					
11	Automobile Dealers					C/S	S	S								

Table 17.16.070.1 Permitted Land Use - cont.

		LD	MD	HD	DMD	CR	CG	CP	CCMU	DCMU	DRMU	ID	IC	IL	IA	P
12	Automotive Parts, Accessories, & Tire Stores					S	S	S	S	S	S					
13	Building Material & Supplies Dealers					S	S	S	S	S	S					
14	Lawn and Garden Equipment & Supplies Stores					S	S	S	S	S	S		S		S	
15	Food & Beverage Stores					S[3]	S	S[3]	S	S	S	S[4]				
16	Gasoline Stations					S	S	S				S				
17	General Merchandise Stores					S[3]	S	S	S	S	S					
18	Gift & Novelty stores					S	S	S	S	S	S	S				
19	Manufactured Home Dealers							S					S			
20	Direct Selling Establishments (except food)						S	S					C			
	Finance and Insurance															
21	Commercial Banking & Related Activities					S	S	S	S	S	S	S[14]				
22	Securities, Other Financial Investments & Related Activities					S	S	S	S	S	S					
23	Insurance Carriers & Related Activities					S	S	S	S	S	S					
	Professional, Scientific and Technical Services															
24	Offices of Professionals providing Legal, Accounting, Tax Preparation, Bookkeeping, Payroll, Advertising & Related Services					S	S	S	S	S	S					
25	Offices of Physicians, Dentists, & Other Health Practitioners					S	S	S	S	S	S					
26	Outpatient Care Centers					S	S	S	S	S	S		S			
27	Medical & Diagnostic Laboratories						S	S	S	S	S		S			
28	Home Health Care Services						S	S	S	S	S		S			
29	Architectural, Engineering, & Related Services					S	S	S	S	S	S		S			
30	Specialized Design Services					S	S	S	S	S	S		S			
30a	Photographic Services					S	S	S	S	S	S		S			

Table 17.16.070.1 Permitted Land Use - cont.

		LD	MD	HD	DMD	CR	CG	CP	CCMU	DCMU	DRMU	ID	IC	IL	IA	P
31	Management, Scientific, Technical Consulting, Computer Systems Design, & Related Services					S	S	S	S	S	S					
32	Scientific Research & Development Services					C/S	S	S	S	S	S		S			
33	Veterinary & Pet Care Services					S	S	S	S	S	S					
33a	Other Professional Services					S	S	S	S	S	S		S			
	Information															
34	Offices of Publishing Industries (except internet)						S	S	S	S	S		S			
35	Radio & Television Broadcasting Offices & Studios					S	S	S	S	S	S					
36	Internet Publishing & Broadcasting					S	S	S	S	S	S					
37	Telecommunications except Broadcast and Telephone Towers					S	S	S	S	S	S		S			
37a	Broadcast or Telephone Tower			C/S		C/S	C/S	C/S	C/S	C/S	C/S					
38	Libraries & Archives						S	S	S	S	S					S
	Real Estate and Rental and Leasing															
39	Offices of Real Estate Sales & Rental Companies					S	S	S	S	S	S					
40	Self-Storage Facilities						C/S	C/S					S	S		
41	Automotive Utility Trailer, & RV Equipment Rental and Leasing Services						C/S	C/S		S			S			
42	Consumer Goods Rental					C/S	S	S	S	S	S					
43	General Rental Centers						S	S								
44	Commercial & Industrial Machinery & Equipment Rental and Leasing Services							S					S	S		

Table 17.16.070.1 Permitted Land Use - cont.

		LD	MD	HD	DMD	CR	CG	CP	CCMU	DCMU	DRMU	ID	IC	IL	IA	P
	Management of Companies and Enterprises															
45	Offices of Businesses, Non-Profit Organizations, & Governmental Agencies					S	S	S	S	S	S					
	Arts, Entertainment and Recreation															
46	Performing Arts, Spectator Sports, & Amusement & Recreation Facilities					S	S	S	C/S	C/S	C/S				S[5]	S[6]
46a	Fitness and Recreation Sports Centers					S	S	S	S	S	S					
47	Museums, Historical Sites, & Similar Institutions								S	S	S					S
48	Golf Courses														S	
49	Public Parks															S
50	Hotel, Motel, Inn					S	S	S	C/S			S				
51	RV Parks and Recreational Camps											S			S	
52	Bed & Breakfast	C	C	C	C	S	S		S	S	S	S				
53	Eating & Drinking Places					S	S	S	S	S	S	S				
54	Caterers & Mobile Food Services						S	S								
	Administrative Support Services															
55	Office Administrative Services					S	S	S	S		S					
56	Employment Services						S	S	S		S		S			
57	Business Support Services					S	S	S	S		S					
58	Travel Arrangement & Reservation Services					S	S	S	S		S					
59	Investigation & Security Services					S	S	S	S		S					
60	Exterminating & Pest Control Service							S					S	S		
61	Janitorial, Carpet & Upholstery Cleaning Services						S	S					S			
62	Landscaping Services						S	S					S		S	
	Other Services															
63	General Automotive Repair					S	S	S		S						

Table 17.16.070.1 Permitted Land Use - cont.

		LD	MD	HD	DMD	CR	CG	CP	CCMU	DCMU	DRMU	ID	IC	IL	IA	P
63a	Heavy Automotive Repair						S	S								
64	Automotive Body, Paint, Interior, and Glass Repair						C/S	C/S		S			S	S		
65	Automobile Oil Change & Lubrication Shops					C/S	S	S					S			
66	Car Washes					C/S	S	S					S			
67	Electronic & Precision Equipment Repair & Maintenance						S	S								
68	Commercial & Industrial Machinery & Equipment (except Automotive & Electric) Repair & Maintenance							S					S	S		
69	Personal & Household Goods Repair & Maintenance						S	S	S	S	S		S			
70	Personal Care Services					S	S	S	S	S	S					
71	Funeral Homes & Funeral Services					S	S	S	S	S	S					
72	Cemeteries & Crematories															S
73	Dry Cleaning & Laundry Services					S	S	S	S	S	S					
74	Photofinishing					S	S	S	S	S	S					
75	Parking Lots and Garages					S	S	S	S	S	S					S
INDUSTRIAL USES																
	Manufacturing															
76	Food Manufacturing (except for animal slaughtering and processing and seafood preparation)					S	S	S	S[16]	S[16]	S[16]		S	S	C/S[7]	
77	Beverage Manufacturing							S	S[16]	S[16]	S[16]		S	S		
78	Textile Mills & Textile Product Mills							C/S	S[16]	S[16]	S[16]			C/S		
79	Apparel & Leather Manufacturing							S	S[16]	S[16]	S[16]		S	S		
79a	Wood Products Manufacturing							C/S	S[16, 17]	S[16, 17]	S[16, 17]			C/S		

Table 17.16.070.1 Permitted Land Use - cont.

		LD	MD	HD	DMD	CR	CG	CP	CCMU	DCMU	DRMU	ID	IC	IL	IA	P
80	Paper Mills & Paperboard Mills							S						S		
81	Converted Paper Product Manufacturing							S						S		
82	Printing & Related Support Activities					S[8]	S[8]	S[8]	S[8]	S[8]	S[8]		S	S		
83	Chemical, Plastics, Rubber Products, & Nonmetallic Mineral Products Manufacturing													C/S		
84	Primary Metal Manufacturing													C/S		
85	Fabricated Metal Product Manufacturing							S	S[16]	S[16]	S[16]		S	S		
86	Machinery Manufacturing							S					S	S		
87	Computer & Electronic Product Manufacturing							S					S	S		
88	Electrical Equipment, Appliance & Component Manufacturing							S					S	S		
89	Transportation Equipment Manufacturing							S					S	S		
90	Furniture & Related Product Manufacturing							S	S[16]	S[16]	S[16]		S	S		
91	Miscellaneous Manufacturing							S	S[16]	S[16]	S[16]		S	S		
	Construction															
92	Building Construction Contractors							S					S	S		
93	Heavy & Civil Engineering Construction Contractors							S					S	S		
94	Specialty Trade Contractors							S					S	S		
	Transportation and Warehousing															
95	Air Transportation (passenger or freight)							C/S[9]						C/S[9]		C/S
96	Rail Transportation													S		
97	Truck Transportation (general freight & specialized freight)							S					S	S		

Table 17.16.070.1 Permitted Land Use - cont.

		LD	MD	HD	DMD	CR	CG	CP	CCMU	DCMU	DRMU	ID	IC	IL	IA	P
98	Transit & Ground Passenger Transportation (amended by Ord. 906, June 16, 2008)					C/S	S	S	C/S	C/S	C/S		S	S		S
99	Motor Vehicle Towing							S					S	S		
100	Postal Service						S	S	S	S	S					S
101	Couriers & Messenger Service					C/S	S	S	S	S	S					
102	Warehousing & Storage (except self-storage)							S					S	S		
103	Automotive Wrecking Yard, Junkyard												S	C/S		
104	Boat & RV Storage												S			
	Wholesale Trade															
105	Merchant Wholesalers						C/S	C/S								
106	Wholesale Electronic Markets & Agents & Brokers						S	S					S			
107	Electric Power Generation Facilities													S		C/S
108	Electricity Transmission & Distribution Facilities												S	S	S	S
109	Natural Gas Distribution Facilities												S	S		S
110	Water or Sewage Treatment Plants															S
	Waste Management and Remediation Services															
111	Water or Sewage Collection or Distribution Facilities & Pump Stations	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
112	Solid Waste Collection Facilities													S		S
113	Solid Waste Treatment and Disposal															S
114	Waste Remediation Services													C/S		
115	Materials Recovery Facilities							S						S		S[6]
	AGRICULTURAL USES															
116	Crop Production							S[15]					S[15]	S[15]	S	

Table 17.16.070.1 Permitted Land Use - cont.

		LD	MD	HD	DMD	CR	CG	CP	CCMU	DCMU	DRMU	ID	IC	IL	IA	P
	PUBLIC INSTITUTIONS															
	Public Administration															
117	Justice, Public Order, & Safety Activities					S	S	S	S	S	S					S
	Health and Social Assistance															
118	Hospitals					C/S	S	S								S
119	Nursing & Residential Care Facilities	C	C	C/S												
	Educational Services															
120	Day Care Facility	C/S	C/S	C/S		S	S	S	S	S	S		S	S[10]		S[10]
121	Family Child Care Center	P	P	P					P	P	P					
122	Elementary & Secondary Schools, Junior Colleges, Colleges, Universities, & Professional Schools					S	S	S	S	S	S					S
123	Business Schools & Computer & Management Training					S	S	S	S	S	S					
124	Technical, Trade or Other Schools & Instructions					S	S	S	S	S	S					
125	Educational Support Services					S	S	S	S	S	S					S
	Religious and Civic Organizations															
126	Places of Worship								S	S	S					S
127	Social & Civic Organizations					S	S	S	S	S	S					
	ACCESSORY & OTHER USES															
128	Antennas > 55 feet high	C	C	C		P	P	P	P	P	P	P	P	P	C	P
129	Antennas > 75 feet high	C	C	C		C/S	C/S	C/S	C/S	C/S	C/S	C/S	C/S	C/S	C	C/S
130	Home Occupations	P	P	P[11]		P	P		P	P	P					
131	Accessory Uses	P	P	P		P	P	P	P	P	P	P	P	P	P	P
132	Accessory Structures	P	P	P		P	P	P	P	P	P	P	P	P	P	P
133	Open Storage Areas					P	P	P					P	P	P	P
134	Outdoor Storage Yard												P	P		

Notes to Table 17.16.070.1

[1] Subject to design requirements, see Chapter 17.20

[2] Only as part of mixed use development, and not on the ground floor

[3] Limited to 8,000 square feet gross floor area

[4] Convenience stores only

[5] Limited to arenas and fairgrounds

[6] Only owned by a public/semi-public entity

[7] Fruit and Vegetable Canning, Pickling, Freezing, and Drying only

[8] Quick printing or under 10,000 square feet gross floor area

[9] Heliport only

[10] As an accessory use only

[11] Only if no employees other than residents, otherwise, C

[12] Only one single family or manufactured home per lot

[13] Site plan review is required if there is more than one duplex on a parcel.

[14] With no less than two drive-thru lanes and a drive-up automatic teller machine.

[15] Indoors only

[16] Limited to 8,000 square feet gross floor area; a minimum of 15% of floor area must be for retail sales of products to the public accessible directly from the street

[17] Not including Sawmills and Wood Preservation; Veneer, Plywood, and Engineered Wood Product Manufacturing; Wood Container and Pallet Manufacturing; or Manufactured Home Manufacturing

(Table and footnote 13 amended by Ord. 898, August 20, 2007)
(Table amended by Ord. 902, May 7, 2008, Ord. 907, January 14, 2009, Ord. 913, September 2, 2009, Ord. 930, November 18, 2010)
(Table amended and footnote 14 added by Ord. 963, December 18, 2013)
(Table amended and footnote 15 added by Ord. 986, August 17, 2016)
(Table amended by Ord. 988, August 31, 2016)
(Table amended, footnote 3 amended, footnotes 16 and 17 added by Ord. 1001, December 21, 2016)

2. DIMENSIONAL REQUIREMENTS FOR LOTS.

a. All lots shall comply with the minimum requirements of Table 17.16.070.2. Additional requirements may be imposed by other provisions of this Code. It is a violation of this Code to create a lot which does not meet the dimensional requirements of this section.

Table 17.16.070.2 Minimum Dimensional Requirements for Lots

	LD	MD	HD	DMD	CR	CG	ID	CP	CCMU	DCMU	DRMU	IC	IL	IA	P
Lot Area (square feet)[1]	8,000[2]	7,000[3]	6,000	7,000	0	0	0	0	0	0	0	0	0	5 acres	0
Lot Width (feet)	80[4]	70[4]	60[4]	40	0	0	0	0	0	0	0	0	0	0	0
Average Width (feet)	80	70	60	40	0	0	0	0	0	0	0	0	0	0	0

(Table amended by Ord. 902, May 7, 2008, Ord. 930, November 18, 2010, Ord. 988, August 31, 2016)

Notes to Table 17.16.070.2

[1] The decision authority may require larger lot areas at the time a partition or subdivision is approved if they determine that it is necessary to do any of the following:

a. Protect natural drainage ways.
b. Provide drainage or utility easement.
c. Protect future right-of-way.
d. Protect unbuildable steep slope areas above 15 percent slope.
e. Protect flood plain hazard or wetland areas.

[2] 10,000 square feet for all lots east of a north-south line from the north City limits to the south City limits running along the center line of Tenth Avenue

[3] A tri-plex requires a minimum lot area of 10,500 square feet

[4] 40 feet for lots with frontage on a cul-de-sac

3. DIMENSIONAL REQUIREMENTS FOR STRUCTURES.

a. All structures shall comply with the requirements of Table 17.16.070.3. Setback requirements are minimum requirements. Building height is a maximum requirement. Additional requirements may be imposed by other provisions of this Code.

Table 17.16.070.3 Dimensional Requirements for Structures

	LD	MD	HD	DMD	CR	CG	ID	CP	CCMU	DCMU	DRMU	IC	IL	IA	P
Front Yard Setback (feet)[1]	20[2]	20[2]	20[2]	--[8]	0	0	0	0	--[8]	--[8]	--[8]	0	0	0	0
Side Yard Setback (feet)	5	5	5	--[8]	0[3]	0[3]	0[3]	0[4]	--[8]	--[8]	--[8]	0[4]	0[4]	0	0[3]
Rear Yard Setback (feet)	20	15	15	--[8]	0[3]	0[3]	0[3]	0[4]	--[8]	--[8]	--[8]	0[4]	0[3]	0	0[3]
Building Height (feet)[5]	35[6]	35[6]	--[4]	--[8]	60[7]	60[7]	60[7]	--[4]	--[8]	--[8]	--[8]	--[4]	--[4]	--[4]	60[7]

(Table amended by Ord. 902, May 7, 2008 Ord. 930, November 18, 2010, Ord. 998, August 31, 2016)

Notes to Table 17.16.070.3

[1] Front setbacks are also subject to the requirements of Section 17.20.080

[2] 25 feet to a garage entrance, except a garage on a back lot or flag lot. (Ord. 898, August 20, 2007)

[3] 10 feet when adjacent to a residential district, or as may be established through a site plan review

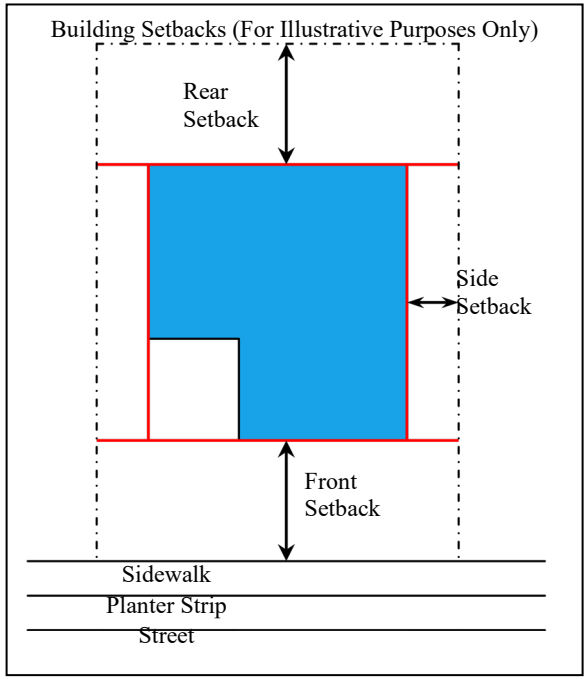
[4] As may be established through a site plan review

[5] Chimneys and antennas may exceed this limit. The maximum height of antennas shall be 55 feet, unless conditional use approval is obtained.

[6] Or 2 ½ stories

[7] Chimneys and antennas may exceed this limit. The maximum height of antennas shall be 15 feet above the highest point of the principal structure existing on the structure unless conditional use approval is obtained.

[8] See the requirements of Section 17.16.080 further details and requirements. (Added Ord. 902, May 7, 2008)



4. ADDITIONAL REGULATIONS FOR SINGLE FAMILY DETACHED DWELLINGS AND MANUFACTURED HOMES ON INDIVIDUAL LOTS.

   a. Within the Low Density and Medium Density Residential Districts, all new single-family detached dwellings, including manufactured homes not in a mobile home park, are subject to the following development and design standards: (Amended Ord 1060, May 17, 2023)

      1) Floor Area. A dwelling shall have a minimum floor area of 1,000 square feet. The dwelling must have a minimum horizontal dimension of at least 24 feet. (Amended Ord 1060, May 17, 2023)

      2) (Repealed Ord. 898, August 20, 2007)

      3) Design Features. All new dwellings shall contain the following design feature requirements: (Amended Ord 1060, May 17, 2023)

         a) The site must include an attached or detached garage with exterior materials that are the same exterior materials as the primary home. (Amended Ord 1060, May 17, 2023)

         b) The building shall be provided with gutters and downspouts. (Amended Ord 1060, May 17, 2023)

         c) The dwelling must have a composition asphalt, fiberglass, shake, or tile roof with a minimum pitch of 3 feet in height for each 12 feet in length. (Added Ord 1060, May 17, 2023)

         d) The dwelling must have horizontally applied wood siding, horizontally applied fiber-cement siding, brick or stone masonry siding, or textured plywood siding with vertical grooves. (Added Ord 1060, May 17, 2023)

         e) The base of the new dwelling must be enclosed continuously at the perimeter with either concrete, concrete block, brick, stone, or combination thereof. Unless the home is placed on a basement, the home shall sit so that no more than 12 inches of the enclosing material is exposed above grade. Where the building site has a grade with a slope of more than 10%, no more than 12 inches of the enclosing material shall be exposed on the uphill side of the home. (Added Ord 1060, May 17, 2023)

         f) If a manufactured home, the transportation mechanisms, including wheels, axles, and hitch, shall be removed. (Added Ord 1060, May 17, 2023)

      4) In addition, to provide architectural relief, new dwellings shall contain at least 3 of the following design elements on the side(s) of the home which fronts on a street: (Amended Ord 1060, May 17, 2023)

         a) Dormers or gables.

         b) Cupolas.

         c) Bay or bow windows.

         d) Exterior shutters.

         e) Recessed entries.

         f) Front porch of at least 100 square feet, which may extend into the required front yard.

         g) Covered porch entries.

         h) Pillars or posts in the front entry area.

i) (Repealed, Ord 1060, May 17, 2023.)

j) Front-side exterior brickwork or masonry.

5) BUILDING ORIENTATION. If the lot has frontage on a public street and is not a flag lot, the architectural front of the dwelling shall face the street. (Amended Ord 1060, May 17, 2023)

(Amended Ord 1060, May 17, 2023)

17.16.080 DOWNTOWN CENTRAL CORE MIXED USE, DOWNTOWN COMMERCIAL MIXED USE, AND DOWNTOWN RESIDENTIAL MIXED USE ZONES (Amended Ord. 930 November 18, 2010)

1. PURPOSES. This section implements the Downtown Stayton Transportation & Revitalization Plan which calls for the downtown area to accommodate intensive commercial, residential, and mixed-use development. The downtown area is envisioned as the focus of the community, incorporating these uses in a pedestrian-oriented district. The Downtown Central Core Mixed Use (CCMU), Downtown Commercial Mixed Use (DCMU), and Downtown Residential Mixed Use (DRMU) zones are designed to work together to result in a lively, prosperous downtown which serves as an attractive place to live, work, shop, and recreate with less reliance on the automobile than might be found elsewhere in the community. (Amended Ord. 902, May 7, 2008) (Amended Ord. 930, November 18, 2010)

2. USE AND DIMENSIONAL RESTRICTIONS. (Added Ord. 902, May 7, 2008)

   In addition to the restrictions contained in Section 17.16.070, the following additional restrictions apply with the CCMU, DCMU, and DRMU Zones. (Amended Ord. 902, May 7, 2008) (Amended Ord. 930, November 18, 2010)

   a. Within the CCMU Zone, new dwellings shall be permitted only within buildings where the entire ground floor is in commercial use, or behind buildings where the entire ground floor is in commercial use. (Added Ord. 902, May 7, 2008)

   b. The maximum building footprint size permitted for any building occupied entirely by a commercial use or uses shall be 10,000 square feet. (Added Ord. 902, May 7, 2008)

   c. Floor Area Ratio (Added Ord. 902, May 7, 2008)

      1) Purpose. The floor area ratio (FAR) is a tool for regulating the intensity of development. Minimum ratios help to ensure that more intensive forms of building development will occur in those areas appropriate for larger-scale commercial buildings and higher residential densities. (Added Ord. 902, May 7, 2008)

      2) FAR Standard. The minimum floor area ratios below apply to all non-residential building development. In mixed-use developments, residential floor space is included in the calculations of floor area ratio to determine conformance with minimum FAR. (Added Ord. 902, May 7, 2008)

      3) The minimum floor area ratio for the construction of a new building in the CCMU Zone shall be 0.5:1; in the DCMU Zone shall be 0.35:1 and in the DRMU Zone shall be 0.20:1. There is no maximum floor area ratio in these zones. (Added Ord. 902, May 7, 2008) (Amended Ord 962, January 1, 2014)

   d. Any property with only residential use shall contain a minimum of 12 dwelling units per acre. There is no maximum density restriction. (Added Ord. 902, May 7, 2008)

   e. Building Setback Requirements. (Added Ord. 902, May 7, 2008)

      1) Purpose. Required building setbacks work with standards for building height and size, and floor area ratios to ensure placement of buildings in a way which creates an attractive streetscape and pleasant pedestrian experience. These regulations also ensure compatibility of building scale, leading to a coherent design scheme appropriate for the various land use districts of the Downtown. (Added Ord. 902, May 7, 2008)

2) Minimum Setbacks. (Added Ord. 902, May 7, 2008)

a) Front. (Added Ord. 902, May 7, 2008)

i. There is no minimum front setback requirement in the CCMU, DCMU, or the DRMU zones for nonresidential buildings or mixed use buildings. (Added Ord. 902, May 7, 2008) (Amended Ord. 930, November 18, 2010)

ii. Residential buildings shall have a minimum 5-foot front yard setback. For single-family attached dwellings or multifamily dwellings with direct auto access from the street, the garage entrance must be either less than 5 feet or more than 18 feet from the front lot line. For single-family attached dwellings with direct auto access from the street, a garage entrance shall not be closer to the front lot line than any other portion of the front facade of the building. (Added Ord. 902, May 7, 2008)

b) Side. There is no minimum side yard setback in the CCMU, DCMU, or the DRMU zones. However, any building located less than 4 feet from a side lot line shall be built at the side lot line with a common wall or provision for a future common wall. (Added Ord. 902, May 7, 2008) (Amended Ord. 930, November 18, 2010)

c) Rear. There is no minimum rear setback requirement in the CCMU, DCMU, or the DRMU zones for nonresidential buildings or mixed use buildings. Residential buildings shall have a minimum 10-foot rear yard setback. (Added Ord. 902, May 7, 2008) (Amended Ord. 930, November 18, 2010)

3) Maximum Setbacks. (Added Ord. 902, May 7, 2008)

a) Front. (Added Ord. 902, May 7, 2008)

i. Within the CCMU Zone, a nonresidential building or mixed use building shall not be more than 10 feet from the front lot line. However, a front setback of no more than 20 feet may be permitted when enhanced pedestrian spaces and amenities are provided in accordance with section 17.16.080.2.h. A residential building shall not be more than 20 feet from the front lot line. (Added Ord. 902, May 7, 2008)

ii. Within the DCMU or DRMU Zone, a building shall not be more than 20 feet from the front lot line. However, a front setback exceeding 20 feet may be permitted when enhanced pedestrian spaces and amenities are provided in accordance with section 17.16.080.2.h. (Added Ord. 902, May 7, 2008) (Amended Ord. 930, November 18, 2010)

iii. In the CCMU, DCMU, or DRMU zones, there is no maximum setback for a residential building that is located behind a nonresidential building. (Added Ord. 902, May 7, 2008) (Amended Ord. 930, November 18, 2010)

b) Side. There is no maximum side yard setback in the CCMU, DCMU, or the DRMU zones. (Added Ord. 902, May 7, 2008) (Amended Ord. 930, November 18, 2010)

c) Rear. There is no maximum rear setback requirement in the CCMU, DCMU, or the DRMU zones. (Added Ord. 902, May 7, 2008) (Amended Ord. 930, November 18, 2010)

d) Conformance with maximum setback distance is achieved when no portion of a building facade is farther from the lot line than the distance specified above. (Added Ord. 902, May 7, 2008)

f. Building Height. (Added Ord. 902, May 7, 2008)

1) Purpose. The minimum and maximum building height standards are used to establish building scales in specific areas of downtown, in order to achieve a pedestrian-friendly character that supports a wide variety of residential and commercial uses. Buildings that are compatible in terms of scale help to create a harmonious visual setting which enhances the livability of a neighborhood and helps to bring about the successful mixing of diverse land uses and activities. (Added Ord. 902, May 7, 2008)

2) Minimum. In the CCMU, DCMU, or DRMU zones the minimum building height shall be 2 stories or 20 feet. The minimum building height standard applies to new commercial, residential, and mixed-use buildings. It does not apply to community service buildings accessory structures, one-time additions or expansions of non-conforming buildings of no more than 25% and less than 1,000 square feet, or to buildings with less than 1,000 square feet of floor area. (Added Ord. 902, May 7, 2008) (Amended Ord. 930, November 18, 2010) (Amended Ord. 962, January 1, 2014)

3) Maximum. In the CCMU, DCMU, or DRMU zones the maximum building height shall be 4 stories, which in total shall not exceed 60 feet. (Added Ord. 902, May 7, 2008) (Amended Ord. 930, November 18, 2010)

4) The floor area of the second story shall comprise not less than 50% of the total ground floor area. When such a partial second story is constructed or installed, the second story floor space shall be located over that portion of the ground floor which is nearest the abutting street or streets. (Added Ord. 902, May 7, 2008)

5) In addition to conforming to the Ground Floor Windows requirements of Section 17.20.220.4.i for any new commercial or mixed-use building subject to a 2-story height minimum, at least 20% of the upper facade area shall be made up of display areas or windows for all facades facing a street. (Added Ord. 902, May 7, 2008)

h. Enhanced pedestrian spaces and amenities. Enhanced pedestrian spaces and amenities consist of features such as plazas, arcades, courtyards, outdoor cafes, widened sidewalks, benches, shelters, street furniture, public art, or kiosks. (Added Ord. 902, May 7, 2008)

17.16.090 NATURAL RESOURCE OVERLAY DISTRICT

1. BOUNDARIES OF THE NR DISTRICT. The NR Overlay district shall include lands that are:
   a. 100 feet from the normal high water line of the North Santiam River, Mill Creek, Lucas Ditch, Salem Ditch north of Shaff Road, except for areas within the HD, CR, CG, CCMU, DRMU, and ID zones. (Amended Ord. 902, May 7, 2008)
   b. 50 feet from the normal high water line of the Salem Ditch and the Stayton Ditch, except for areas within the CR, CG, CCMU, and DRMU zones. (Added Ord. 902, May 7, 2008)

   The provisions, requirements, and restrictions found herein shall be in addition to those found in the underlying primary zone. Where there are conflicts between the requirements of the NR Overlay zone and the requirements of the underlying primary zone, the more restrictive requirements shall apply.
2. PERMITTED USES. All uses are subject to site plan review.
   a. Publicly owned buildings and facilities related to water supply and treatment, including parking and storage areas.
   b. Recreational trails, walkways, and bikeways.
   c. Public parks and river-related recreational facilities, including meeting rooms, viewing platforms, displays, signs, restrooms, and parking areas.
   d. Resource enhancement projects.
   e. Road and access drives.
   f. Accessory uses**.**
3. DEVELOPMENT CRITERIA. Proposals for development will be subject to the following criteria in addition to the site plan review criteria in Section 17.12.220.6.
   a. The proposal shall have as few significant detrimental environmental impacts on water as possible.
   b. All identified impacts are mitigated through implementation of a mitigation plan approved by the City.
   c. Existing trees and other vegetation shall be retained to the greatest extent possible pursuant to Chapter 17.20.150.
   d. The proposal shall balance the impacts on the area with the potential for public enjoyment of the riparian environment and recreational use of the protected water body.
4. IMPACT EVALUATION. An impact evaluation may be required for proposals in the NR Overlay zone. The impact evaluation shall include:
   a. Identification of all natural resources.
   b. A storm water runoff report and plan detailing the quantity and quality of any storm water runoff from the construction or developed use of the property. The report shall detail the potential impact storm water runoff will have, if any, on the protected water bodies and shall provide a mitigation plan showing how these impacts will be averted.
   c. The functional values of the identified resource are defined by their natural characteristics, quantity, and quality.

d. Erosion and sedimentation control plan adequate to keep sedimentation out of water bodies.

e. Alternative locations, design modifications, or alternative methods of development of the subject property to reduce the impacts on the water supply intakes, aquifer, and natural riparian resources are identified and evaluated.

f. If there is any resulting degradation or loss of functional values of the natural resource as a result of development, a mitigation plan is required which will compensate for the degradation or loss.

17.16.100 FLOODPLAIN OVERLAY DISTRICT

1. PURPOSE. To protect lives and property from the periodic inundation of flood waters and to comply with federal flood control regulations as expressed in the National Flood Insurance Program.
2. LOCATION. All areas designated as flood plain on the Federal Insurance Rate Maps (FIRM).
3. AUTHORITY. Pursuant to applicable federal, state, and local building and zoning law, the City is empowered to take steps to evaluate flood potential and provide plans to reduce the possibility of flood damage through land use and building requirements and restriction.
4. FINDINGS OF FACT.
   a. The flood hazard areas of Stayton are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commercial and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
   b. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities~~,~~ and**,** when inadequately anchored, damage uses in other areas. Uses that are inadequately flood-proofed, elevated, or otherwise protected from flood damage also contribute to the flood loss.
5. STATEMENT OF PURPOSE. It is the purpose of this title to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:
   a. To protect human life and health.
   b. To minimize expenditure of public money and costly flood control projects.
   c. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
   d. To minimize prolonged business interruptions.
   e. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard.
   f. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas.
   g. To ensure that potential buyers are notified that property is in area of special flood hazard.
   h. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.
6. METHODS OF REDUCING FLOOD LOSSES. In order to accomplish its purposes, this section includes methods and provisions for:
   a. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities.
   b. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.

c. Controlling the alteration of natural flood plains, stream channels, and natural protective barriers which help accommodate or channel flood waters.

d. Controlling filling, grading, dredging, and other development which may increase flood damage.

e. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

7. LANDS TO WHICH THIS CODE SECTION APPLIES. This code section shall apply to all areas of special flood hazards within the jurisdiction of the City of Stayton.

8. BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD. The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled, "The Flood Insurance Study for Marion County Oregon and incorporated areas Volume 1 and 2, Revised January 2, 2003, with accompanying Flood Insurance Rate Maps, is hereby adopted by reference and declared to be part of this code. The Flood Insurance Study is on file at Stayton City Hall. (Ord. 898, August 20, 2007)

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

10. WARNING AND DISCLAIMER OF LIABILITY. The degree of flood protection required by this section is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This code section does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This code section shall not create liability on the part of the City of Stayton, any officer or employee thereof, or the Federal Insurance Administration for any flood damages that result from reliance on these requirements or any administrative decision lawfully made thereunder.

11. ESTABLISHMENT OF DEVELOPMENT PERMIT. A development permit shall be obtained before construction or development begins within any area of special flood hazard established in this section. The permit shall be for all structures including manufactured houses and for all other development including fill and other activities as set forth in the "Definitions" section of Chapter 17.04. Application for a development permit shall be made on forms provided by the City Planner. Specifically, the following information is required:

    a. Elevation in relation to mean sea level of the lowest floor (including basement) of all structures**.**

    b. Elevation in relation to mean sea level to which any structure has been flood proofed**.**

    c. Certification by a registered professional engineer or architect that the flood proofing methods for any nonresidential structure meet the flood proofing criteria in Section 17.16.100.15.b. (Ord. 898, August 20, 2007)

    d. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

12. DESIGNATION OF THE DECISION AUTHORITY. The City Planner is hereby appointed to administer and implement this section by granting or denying development permit applications in accordance with its provisions.

13. DUTIES AND RESPONSIBILITIES OF THE BUILDING OFFICIAL. Duties of the building official shall include, but not be limited to:

    a. Permit Review.

        1) Review all development permits to determine that the standards of this Section have been satisfied. (Ord. 898, August 20, 2007)

        2) Review all development permits to determine that all necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required.

        3) Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 17.16.100.18 are met. (Ord. 898, August 20, 2007)

    b. Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with Section 17.16.100.8, the building official shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer the standards of this Section. (Ord. 898, August 20, 2007)

    c. Information to be Obtained and Maintained. Where base flood elevation data is provided through the Flood Insurance Study or required as in Section 17.16.100.16.b.3. (Ord. 898, August 20, 2007)

        1) Obtain and record the actual elevation (in relation to mean sea level) of the lowest habitable floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.

        2) For all new or substantially improved flood-proofed structures:

            a) Verify and record the actual elevation (in relation to mean sea level) to which the structure was floodproofed, and (Ord. 898, August 20, 2007)

            b) Maintain the flood proofing certifications required in Section 17.16.100.11. (Ord. 898, August 20, 2007)

        3) Maintain for public inspection all records pertaining to the provisions of this section. (Ord. 898, August 20, 2007)

    d. Alteration of Watercourses.

        1) Notify adjacent communities and the Department of Land Conservation and Development prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration. (Ord. 898, August 20, 2007)

        2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

    e. Interpretation of FIRM Boundaries. Make interpretations where needed, as to exact locations of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the locations of the boundary shall be given a reasonable opportunity to appeal the interpretation Such appeals shall be granted consistent with the standards of Section 60.0 of the Rules and Regulations of the National Flood Insurance Program (44 CFR 59-76).

14. VARIANCES. Variances shall be processed and acted upon pursuant to the procedures and criteria of Section 17.12.220. Approvals of variances may be conditional upon the satisfaction of

both general variance criteria and those criteria and standards particular to flood hazard regulatory objectives.

15. GENERAL CONSTRUCTION AND DEVELOPMENT STANDARDS. In all areas of special flood hazards, the following standards are required:

    a. Anchoring.

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

        2) All manufactured housing must likewise be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top of frame ties to ground anchors. Specific requirements shall be that:

            a) Over-the-top ties are provided at each of the four corners of the manufactured house, with 2 additional ties per side at intermediate locations, with manufactured housing less than 50 feet long requiring 1 additional tie per side.

            b) Frame ties are provided at each corner of the house with 5 additional ties per side at intermediate points, with manufactured housing less than 50 feet long requiring 4 additional ties per side.

            c) All components of the anchoring system are capable of carrying a force 4,800 pounds.

            d) Any additions to the manufactured house are similarly anchored.

        3) An alternative method of anchoring may involve a system designed to withstand a wind force of 90 miles per hour or greater. Certification must be provided to the local building official that this standard has been met.

    b. Construction Materials and Methods.

        1) All new construction and substantial improvements shall be constructed with material and utility equipment resistant to flood damage.

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

        3) Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

    c. Utilities.

        1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system**.**

        2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters**.**

        3) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

d. Subdivision Proposals. The following standards apply to subdivision and partition proposals in areas subject to flood hazard. These standards shall be applied to approval of subdivisions or partitions in addition to approval criteria and procedures of Section 17.24.040.

1) All subdivision proposals shall be consistent with the need to minimize flood damage**.**

2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage**.**

3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage**.**

4) Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposal and other proposed developments which contain at least 50 lots or five acres (whichever is less).

e. Review of Building Permits. Where elevation data is not available either through the Flood Insurance Study or from another authoritative source (Section 17.16.100.13), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. (Ord. 898, August 20, 2007)

16. SPECIFIC STANDARDS. In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 17.16.100.8, or Section 17.16.100.13.b, the following provisions are required: (Ord. 898, August 20, 2007)

a. Residential Construction.

1) New construction and substantial improvement of any residential structure shall have the lowest floor, elevated to 1 foot above the base flood elevation per Oregon State Law.

2) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

a) A minimum to 2 openings having a total net area of not less than 1 square inch for every square foot of enclosed area subject to flooding shall be provided.

b) The bottom of all openings shall be no higher than 1 foot above grade.

c) Opening may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

b. Nonresidential Construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to 1 foot above the base flood elevation or, together with attendant utility and sanitary facilities, shall:

1) Be flood proofed so that below one foot above the base flood level the structure is watertight with walls substantially impermeable to the passage of water. (Ord. 898, August 20, 2007)

2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

3) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in Section 17.16.100.13.c. (Ord. 898, August 20, 2007)

4) Nonresidential structures that are elevated, not flood proofed, must meet the same standards for space below the lowest floor as described in Section 17.16.100.16.a.2. (Ord. 898, August 20, 2007)

5) Applicants flood proofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the flood proofed level (e.g., a building constructed to the base flood level will be rated as 1 foot below that level).

c. Manufactured Homes. All manufactured homes to be placed or substantially improved within Zones AH and AE on the FIRM shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated 1 foot above the base flood elevation and be securely anchored to and adequately designed foundation system to resist flotation, collapse and lateral movement.

d. Recreational Vehicles. Recreational vehicles placed on sites within Zones AH and AE on the FIRM either:

1) Be on the site for fewer than 180 consecutive days,

2) Be fully licensed and ready for use on a street, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions, or (Ord. 898, August 20, 2007)

3) Meet the requirements of elevation and anchoring for manufactured homes. (Ord. 898, August 20, 2007)

17. ENCROACHMENTS. The cumulative effect of any proposed development, where combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than 1 foot at any point.

18. FLOODWAYS. Located within areas of special flood hazard established in Section 17.16.100.8 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply: (Ord. 898, August 20, 2007)

a. The following development is allowed within the floodway:

1) Protection of property and structures during a flooding emergency declared by the City of Stayton. Such protection shall be the minimum necessary to protect property and structures. A subsequent Development Permit shall be required for the protection work done during the flooding emergency, and shall demonstrate compliance with all applicable provisions of Section 17.16.100. (Ord. 898, August 20, 2007)

2) Signs, markers, aids, etc., placed by a public agency to serve the public.

3) Pervious driveways, streets, and parking lots for existing uses where no alteration of the topography will occur.

4) Maintenance of existing structures, (such as flood control structures, fish and wildlife structures, public facilities, public utilities, and other permitted structures), provided no alteration of the topography occurs.

5) Public facilities and public utilities, provided a Development Permit demonstrating compliance with all applicable provisions of Section 17.16.100 is obtained. (Ord. 898, August 20, 2007)

b. Any development not listed in Section 17.16.100.18.a. above shall not be allowed except by variance, per Section 17.12.200.6.b.2 and all applicable provisions of this Section. (Ord. 898, August 20, 2007)

c. Any development allowed within the floodway, except for development listed in Section 17.16.100.18.a.2, 3, and 4 above, must provide through certification by a registered professional civil engineer demonstrating through hydraulic and hydrologic analysis performed in accordance with standard engineering practice that such development shall not result in any increase in flood levels during the occurrence of the base flood discharge. (Ord. 898, August 20, 2007)

17.16.110 COMMERCE PARK ZONE

1. PURPOSE. The purpose of the Commerce Park Zone is to provide opportunities for mixed use development in a flexible manner on a campus-like setting. The uses permitted include, smaller-scale industrial uses as well as most commercial uses. Residential uses are permitted as part of live-work developments where the commercial and residential spaces are part of the same occupancy.
2. USE RESTRICTIONS. In addition to the restriction contained in section 17.16.070, the following additional restrictions apply with the Commerce Park Zone.
   a. Within the CP Zone the maximum ground coverage of any individual buildings shall be 30,000 square feet.
   b. Within the CP Zone, each manufacturing use is limited to 10,000 gross floor area.
   c. The site design and architectural standards of Section 17.20.200.3 and 17.20.200.4 do not apply. The site design and architectural standards of Section 17.20.230.2 and 17.20.230.3 shall apply.

(Added Ord. 998, August 31, 2016)

CHAPTER 17.20
DEVELOPMENT
AND
IMPROVEMENT STANDARDS

Adopted Ord. 894, January 2, 2007
Amended Ord. 898, August 20, 2007
Amended Ord. 901, April 16, 2008
Amended Ord. 902, May 7, 2008
Amended Ord. 904, June 16, 2008
Amended Ord. 908 May 6, 2009
Amended Ord. 909 May 20, 2009
Amended Ord. 913, September 2, 2009
Amended Ord. 919, March 18, 2010
Amended Ord. 920, May 3, 2010
Amended Ord. 924, October 20.2010
Amended Ord. 930, November 18, 2010
Amended Ord. 937, August 4, 2011
Amended Ord. 944, March 5, 2012
Amended Ord. 951, February 21, 2013
Amended Ord. 949, April 17, 2013
Amended Ord. 962, January 1, 2014
Amended Ord. 968, May 8, 2014
Amended Ord. 978, January 14, 2015
Amended Ord. 985, September 16, 2015
Amended Ord. 1010, October 20, 2017
Amended Ord. 1015, February 15, 2018
Amended Ord. 1024, September 19, 2018
Amended Ord. 1029, May 1, 2019
Amended Ord. 1033, July 3, 2019
Amended Ord. 1034, July 17.2019
Amended Ord. 1037, November 6,.2019
Amended Ord. 1052, February 2, 2022
Amended Ord. 1059, October 19, 2022
Amended Ord 1060, May 17, 2023

CHAPTER 17.20

DEVELOPMENT AND IMPROVEMENT STANDARDS

SECTIONS

17.20.010 PURPOSE

The intent of this chapter is to designate specific standards and criteria for the development of property within the City. The purpose of these standards and criteria are to require the development and improvement of property within the City in a manner which will not bring about potential land use conflicts, which will comply with all applicable City regulations, which will provide for site development in a logical and efficient manner, and which will promote a safe, healthful, and attractive urban environment within the city.

17.20.020 INTERPRETATION

Provisions of this chapter are applied in addition to the standards and criteria of other chapters of this title. Nothing in this chapter is intended to waive or otherwise limit the applicability of other provisions of this title.

17.20.030 DIMENSIONAL RESTRICTIONS

1. LOCATION OF BUILDINGS. Every building erected shall be located on a lot as herein defined.
2. YARDS APPLY ONLY TO ONE BUILDING. No required yard or open space provided for any building to comply with requirements of this code shall be considered as providing a yard or open space for any other building**.** No required yard or open space on an adjoining lot shall be considered as providing a yard or open space on the lot whereon the building is to be erected.
3. SETBACKS. The setback provision cited below modify the building setbacks for Residential Zones cited in Chapter 17.16, but are applicable only to the specific items listed below.
   a. Front Yard Projections.
      1) Planter boxes, chimneys and flues, steps, cornices, eaves, gutters, belt courses, leaders, sills, pilasters, lintels, and other ornamental features which extend horizontally not more than 24 inches from main buildings are exempt from front setback requirements.
      2) Uncovered porches and covered unenclosed porches not more than 1 story high, the floors of which are not more than 4 feet above grade, may extend not more than 10 feet beyond the front walls of the building; but in no case shall such projection come closer than 10 feet from the front lot line.
   b. Side Yard Projections.
      1) Cornices, eaves, gutters, and fire escapes, when not prohibited by any other code or ordinance, may project into a required side yard not more than 1/3 the width of the side yard or more than 3 feet, whichever is the lesser.
      2) Chimneys, flues, belt courses, leaders, sills, pilasters, lintels, and other ornamental features may project not more than 1 ½ feet into a required side yard, provided, however, that chimneys and flues do not exceed 6 feet in width.
      3) Uncovered decks and patios attached to the main building~~,~~ when 3 feet or less in height from ground level, may be extended to the side yard property line, but in no case shall be closer than 10 feet to a street right-of-way.
   c. Rear Yard Projections.
      1) Chimneys, flues, belt courses, leaders, sills, pilasters, lintels, and other ornamental features may project not more than 1 ½ feet into a required rear yard, provided, however, that chimneys and flues do not exceed 6 feet in width.
      2) A fire escape, balcony, outside stairway, cornice, or other unenclosed, unroofed projections may project not more than 5 feet into a required rear yard, provided they are set back at least 6 feet from any property line.
      3) Planter boxes, steps, uncovered decks and porches, covered but unenclosed decks and porches, and covered patios, when not more than 1 story high and the floors of which are not more than 4 feet above grade, may extend up to 6 feet into the rear setback. (Ord. 898, August 20, 2007)
      4) (Repealed, Ord. 898, August 20, 2007)
      5) (Repealed, Ord. 898, August 20, 2007)

17.20.040 SPECIAL REGULATIONS FOR ACCESSORY BUILDINGS

1. APPLICATION OF REGULATIONS. The regulations set forth herein shall apply to all residential zones and to buildings in any other zone used in connection with residential purposes.
2. HEIGHT. No portion of an accessory building shall be taller than 8 feet plus one foot for each foot of distance from the lot line to that portion of the accessory building. An accessory building shall be no higher than the main building.
3. FRONT YARDS. Any accessory building shall meet the setback requirements of the district in which it is located except on a corner lot. On a corner lot, an accessory structure shall meet the front setback requirement but an accessory structure of less than 200 square feet in floor area and less than 10 feet tall may be located no less than five feet from a front lot line provided the following requirements are met.
    a. The rear lot line of the lot is also the rear lot line of the abutting lot.
    b. The accessory structure is located in the rear yard.
    c. The accessory structure is located behind a site-obscuring fence no less than 6 feet in height.
    d. There is no driveway entering the street from the front lot line from which the accessory building is less than required front setback.
4. SIDE YARDS. Accessory buildings shall have a minimum setback of 5 feet from a side lot line.
5. REAR YARDS. An accessory building shall have a minimum setback of 3 feet from the rear lot line.

17.20.050 FENCES

1. RESIDENTIAL ZONES. (Amended Ord. 951, February 21, 2013)
   a. Front Yards.
      1) Fences, walls and hedges must be placed on private property and not extend into or over the street right of way.
      2) Fences, walls, and hedges that are within 10 feet of a front lot line shall be no more than 48 inches tall and that portion above 24 inches shall be 50% open. A hedge shall not be planted within three feet of the front lot line.
      3) On a corner lot, a wall or fence of up to 6 feet in height may be placed within 10 feet of the property line on the front lot line that does not have a driveway entering a street, provided the wall or fence is not located within the sight distance triangle adjacent to a street intersection or driveway entrance to a street. On a corner lot, a hedge of up to 6 feet in height may be placed within 10 feet, but no less than 3 feet, of the property line on the front lot line that does not have a driveway entering a street, provided the hedge is not located within the sight distance triangle adjacent to a street intersection or driveway entrance to a street.
      4) Fences, walls or hedges in a front yard more than 10 feet from the property line may be up to 6 feet in height.
      5) Notwithstanding the above, a masonry wall up to 7 feet in height may be placed on or within 10 feet of the property line abutting a street when the wall is approved as a part of a site plan approval or a subdivision approval.
   b. Side and Rear Yards.
      1) Fences and walls located within a side or rear yard area may be up to 7 feet in height. Hedges on side and rear yards shall have no height restriction.
      2) For lots with double frontage, the yard opposite the front of the house shall be considered a rear yard for the purposes of Section 17.20.050.
2. COMMERCIAL AND DOWNTOWN ZONES. (Amended Ord. 902, May 7, 2008; Amended Ord 1033, July 3, 2019)
   a. Fences in the front yard must be placed on private property and not extend into or over the street right of way. Fences in the front yard shall
      1) be no more than 42 inches tall;
      2) be made of wrought iron, tubular steel or aluminum, or wood;
      3) have vertical members no more than 1½ inches in diameter or width;
      4) have vertical members no less than 4 inches apart; and
      5) be painted black, white, silver, brown or dark green.
   b. Fencing of outdoor service areas shall meet the standards of Section 17.20.200.3.b.4.
   c. Open fences up to 10 feet in height and solid fences up to 7 feet in height shall be allowed for screening of open storage areas.
   d. Except as provided in Section 17.20.090.13, fences located in rear and side yards shall be no more than 7 feet in height.

3. INDUSTRIAL ZONES.

   a. Fences shall be set back from the front lot line in order to accommodate the buffering requirements of 17.20.090.12.

   b. Fences shall not be taller than 7 feet in height. In addition, 18 inches over the maximum standard shall be allowed to string barbed wire along the top of the fence for security purposes.

4. USE OF HAZARDOUS MATERIALS. Fences shall not be constructed of or contain any material which will do bodily harm such as barbed wire (except as necessary for security fences in commercial and industrial districts), electric wires (other than stock fences), broken glass, spikes, and any other hazardous or dangerous material.

17.20.060 OFF-STREET PARKING AND LOADING

1. PURPOSE STATEMENT. The purposes of this section are to ensure adequate off street parking is provided by each land use in a manner that avoids street congestion, minimizes impacts on neighboring properties, increases vehicular and pedestrian safety, and promotes good aesthetic design to create and preserve an attractive community character.
2. NEW AND EXISTING FACILITIES. Off street automobile parking areas and off street loading areas as set forth below shall be provided and maintained:
   a. For any new building.
   b. When additional seating capacity, floor area, guest rooms, or dwelling units are added to an existing building.
   c. When the use of a building as identified in Section 17.20.060.7.a is changed and would require additional parking areas or off street loading areas under the provisions of that section.
3. RESIDENTIAL AND RECREATIONAL VEHICLE PARKING AND STORAGE OF RECREATIONAL PERSONAL PROPERTY RESTRICTIONS.
   a. Motor Vehicles other than Recreational Vehicles. No parking shall be allowed except on driveways. The side yard and rear yard areas may be used for parking of vehicles unless otherwise prohibited by this title.
   b. Recreational Vehicles. The following standards apply to the off-street parking and storage of recreational vehicles and the storage and parking of recreational personal property within any residential zone:
      1) No off-street parking or storage of recreational vehicles or recreational personal property shall be allowed within the front yard except on driveways. Recreational vehicles and recreational personal property may be parked or stored either in a driveway, side yard, or rear yard. On corner lots, recreational vehicles and recreational personal property may be parked or stored in the front yard from which vehicular access is not gained.
      2) A maximum of a combination of 3 recreational vehicles and items of recreational personal property may be parked or stored outside a fully enclosed structure on a single lot.
      3) Recreational vehicles and trailers shall be required to display a current and valid state registration if parked or stored outside a fully enclosed structure.
      4) Recreational vehicles or recreational personal property shall not be parked or stored on any portion of a lot when parking of the vehicle or property inhibits the necessary view of street traffic.
      5) No portion of a parked recreational vehicle or recreational personal property may block any portion of a sidewalk.
      6) Long-term occupancy of recreational vehicles is prohibited. Temporary occupancy must comply with Section 17.20.110.
      7) On-street parking of recreational vehicles and boats is prohibited except in compliance with City traffic code requirements.

8) The City Planner may grant a permit for outside storage of a single recreational vehicle or item of recreational personal property in a portion of the front yard when the following circumstances exist:

   a) The storage area is on a concrete pad.

   b) The storage area is screened from the street and/or sidewalk by a sight-obscuring hedge or fence. The screening, hedge, or fence must comply with Section 17.20. 050.

   c) The storage area does not create any safety hazards to street traffic.

   d) The storage area, screening or fencing is continuously maintained.

(Amended Ord. 1029 May 1, 2019)

4. REDUCTION OF REQUIRED AREAS PROHIBITED. Off street parking and loading areas which existed on February 1, 1990 shall not be reduced below the required minimum as set forth in this title unless a parking plan is approved by the City Planner as being suitable to meet the needs of the use or uses proposed.

5. LOCATION. Off street parking and loading areas shall be provided on the same lot with the main building or use except that in any commercial, industrial, or public district, the parking area may be located within 500 feet of the main building.

6. JOINT USE. A parking area may have joint use by 2 or more businesses only when it can be shown that all uses can be adequately served at their respective peak hours and cross-over easement agreements are obtained from all users.

7. REQUIREMENTS FOR AUTOMOBILE PARKING. Off-street automobile parking shall be provided in the manner required by subsection 9 of this section and approved by the City Planner in the minimum amounts described in Tables 17.20.060.7 a and b or as determined by Section 17.20.060.7.a.

   a. Minimum Required Parking Spaces

Table 17.20.060.7.a Residential Parking Requirements

Residential Uses	Per Unit	Other Requirements
Single Family Dwelling or Duplex	2	
Multi-family Development	1.5	Plus 1 visitor space per 4 units
Elder housing	1	Plus 1 visitor space per 4 units
Residential facility		0.75 spaces per resident for which the facility is licensed
Residential group home	2	

Table 17.20.060.7.b Commercial and Industrial Parking Requirements

Commercial and Industrial Uses	Per 1,000 Square Feet	Other Requirements
Auditorium, Theater, Stadium or Similar Use	0	1 space per 3 seats 1 space per 4 seats if associated with a school
Auto Repair Garage, Automotive Body, Paint, Interior, and Glass Repair; Automobile Oil Change & Lubrication Shops	0	4 spaces per bay or area used for repair

Table 17.20.060.7.b Commercial and Industrial Parking Requirements cont.

Commercial and Industrial Uses	Per 1,000 Square Feet	Other Requirements
Commercial Banking & Related Activities	3.3	See the requirements of Section 17.20.060.7.g regarding drive-through facilities
Barber Shop or Beauty Parlor	0	3 per station
Family Child Care Center or Day Care Facility	2	Drop-off and pick-up facilities
Churches	0	1 space per 4 seats
Club, Lodge	0	1 space per 3 seats
Construction/Contractor Facility, excluding office	1	
Eating or Drinking Establishments	10	See the requirements of Section 17.20.060.7.g regarding drive-through facilities
Elementary or Middle School	0	2 spaces per classroom plus off street student drop-off and pick-up facilities
Fitness Center	5	
Funeral Homes & Funeral Services	0	1 space per 3 seats
High School	0	6 spaces per classroom plus off street student drop-off and pick-up facilities
Hospital, Nursing Home	0	2 spaces per 1,000 square feet of laboratory and outpatient care plus 0.5 per bed
Hotel, Motel, Boarding House	1	1 space per guest room
Manufacturing	1	
Offices of Physicians, Dentists, & Other Health Practitioners; Outpatient Care Centers	5.5	
Library, Museum	3.5	
Offices for: Finance & Insurance Businesses; Professional Technical Services except offices of Physicians, Dentists, & Other Health Practitioners and Outpatient Care Centers; Information businesses; Real Estate Sales & Rental Companies; Municipal and government buildings	3.5	
Rental Centers	1	1 space per 700 square feet of net area of outdoor storage or display of merchandise
Retail Store	4	
Large Product Retail Store, such as: Automotive Parts, Accessories, & Tire Stores; Building Material & Supplies Dealers; Lawn and Garden Equipment & Supplies Stores; Manufactured Home Dealers	1.6	
Repair & Maintenance Facility	2	
Self-Storage Facility	1	
Spectator Sports & Amusement & Recreation Facilities	8	
Warehouse:0-49,999 sq. feet	1	
Warehouse:50,000 – 99,000 sq. feet	0.5	
Warehouse:100,00 or more	0.3	
Wholesale establishment*	1	Plus 1 space per 700 square feet of net area for sales and display of merchandise.

b. Calculating Spaces. When the required spaces are calculated by this subsection becomes greater than 1/3 of a space, the number shall be rounded up.

c. Determining Requirements for an Unlisted Use. When a required number of parking spaces is not specified for a particular use or facility or the Planning staff determines that the specified number of parking spaces is not appropriate, the City Planner shall prescribe a number of vehicle parking spaces or loading berths based on a determination of the traffic generation of the activity (as determined through a Traffic Impact Analysis), the amount or frequency of loading operations thereof, the time of operation of the activity, their location, and such other factors as effect the need for off street parking or loading.

d. Additional Parking Required. The decision authority may require additional parking beyond the minimum parking requirements of Table 17.20.060.7.b when it finds:

1) There are other similar uses in the City of Stayton that provide parking in amount similar to the required minimum and have experienced problems associated with too little parking availability;

2) The site is more than 300 feet from a public parking lot; or

3) There are physical constraints preventing spillover parking from being accommodated off-site such as, topography, adjacent water bodies, barriers to effective and safe pedestrian access, or no adjacent uses or streets.

e. Downtown Parking Standards. (Added Ord. 902, May 7, 2008, Amended Ord. 930, November 18, 2010)

1) Minimum Parking Requirements. (Added Ord. 902, May 7, 2008, Amended Ord. 930, November 18, 2010)

The provisions of Section 17.20.060.7.a above do not apply within the CCMU, DCMU, and DRMU zones. The City recognizes that the Downtown Zones have provision for public parking and shared parking spaces as well as a supply of on-street parking without adverse affects on traffic movement. Therefore there is no required minimum off-street parking for non-residential uses in the CCMU, DCMU, and DRMU zones. Residential uses in the DCMU and DRMU zones must provide a minimum of 1.0 parking space per dwelling unit. (Added Ord. 902, May 7, 2008, Amended Ord. 930 November 18, 2010)

2) Maximum Off-Street Parking Permitted. (Added Ord. 902, May 7, 2008, Amended Ord. 930, November 18, 2010)

In order to prevent off-street parking from covering more land area than necessary, a maximum parking limit is established in the CCMU, DCMU, and DRMU zones. In these zones, a property shall not provide more parking spaces than 125% of the minimum otherwise required by Section 17.20.060.7.a for the uses on the property, except a residential use may provide up to 2.0 parking spaces per dwelling unit provided at least one of the spaces is within an enclosed garage. (Added Ord. 902, May 7, 2008, Amended Ord. 930 November 18, 2010)

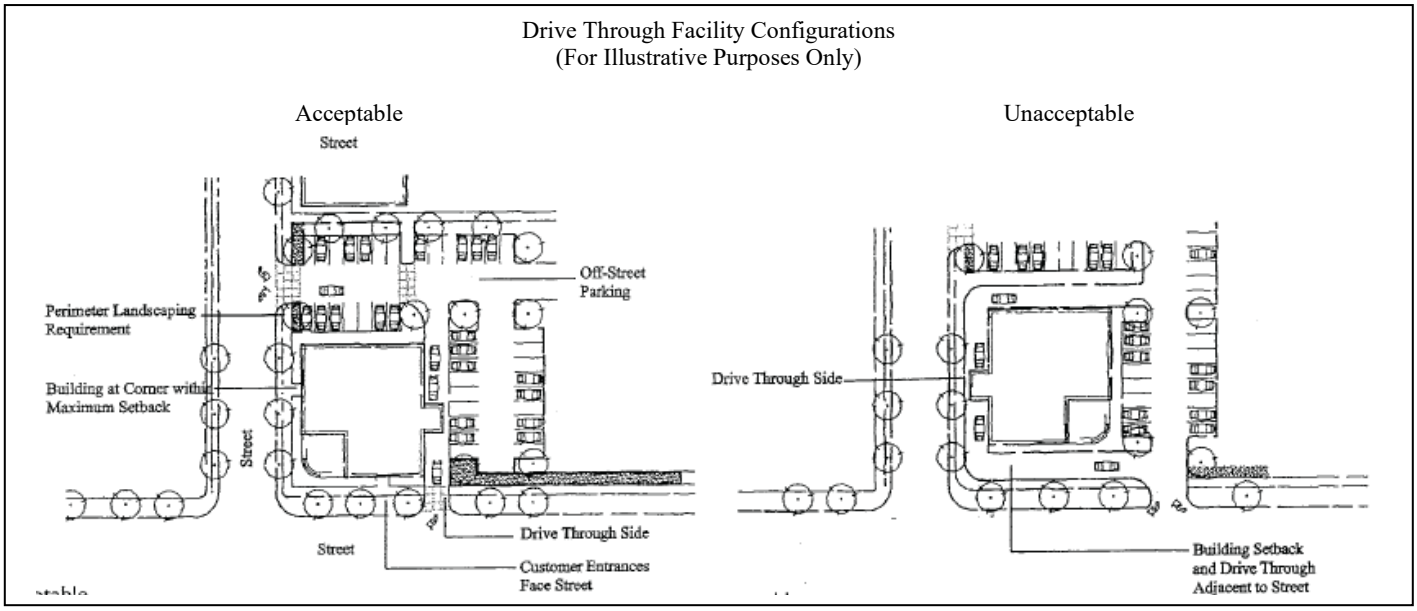
f. Drive-Through Facilities Standards. When drive-through uses and facilities are proposed, they shall conform to all of the following standards:

1) The service window of drive-through facility shall face to an alley, driveway, or interior parking area, and not a street.

2) None of the drive-through facilities (e.g. windows, teller machines, service windows, kiosks, drop-boxes, or similar facilities) are located within 20 feet of a street and shall not be oriented to a street corner. Automatic Teller Machines and kiosks that serve only pedestrians may be oriented to a street.

3) The drive-through facility's queuing area shall be adequate for three vehicles in addition to those being serviced and shall not block travel lanes of a parking area or driveway.

4) Pedestrian ways shall not cross the dedicated drive-through queuing areas.



g. Off-street parking reductions. The decision authority may reduce the off-street parking standards of Table 17.20.060.7.b for sites with one or more of the following features:

1) The site has an existing or planned bus stop located adjacent to it, and the site's frontage is improved with a bus stop shelter, consistent with the standards of the applicable transit service provider: Allow up to a 20 percent reduction to the required number of automobile parking spaces;

2) The site has one (1) or more dedicated parking spaces for carpool or vanpool vehicles: Allow up to a 10 percent reduction to the required number of automobile parking spaces;

3) The site has dedicated parking spaces for motorcycles, scooters, or electric carts: Allow reductions to the standard dimensions for these parking spaces;

4) The site has more than one and a half the minimum number of required bicycle parking spaces: Allow up to a 5 percent reduction to the required number of automobile parking spaces.

(Section 17.20.060.7.g added Ord. 1034, July 17, 2019)

8. HANDICAPPED/DISABLED PARKING.

a. Except for single family residences and duplexes, parking spaces and accessible passenger loading zones reserved exclusively for use by handicapped or disabled persons shall be provided in accordance with Table 17.20.060.8.a and shall be located on the shortest possible accessible circulation route to an entrance of the building being accessed:

Table 17.20.060.8.a Handicapped Parking Requirements

Total Spaces	Minimum Required H/D Spaces
1 to 25	1
26 to 50	2
51 to 100	4
101 to 200	6
201 to 300	7
301 or more	7 plus 1 for each 50 spaces over 300

b. Handicapped/disabled parking spaces shall be designated as reserved for such use by a sign showing the international symbol of accessibility. Such a sign shall be designed so as to not be obscured by a vehicle parked in the space.

c. Parking spaces for handicapped/disabled persons shall be at least 9 feet wide and 18 feet long, and shall have an abutting access aisle of at least 6 feet in width.

d. Passenger loading zones shall provide an access aisle at least 4 feet wide and 20 feet long abutting and parallel to the vehicle pull-up space. If there are curbs between the access aisle and the vehicle pull-up space~~,~~ then a curb ramp shall be provided.

9. OFF STREET LOADING REQUIREMENTS. Off street loading space shall be provided and maintained as listed below in the case of new construction, alterations, and changes of use.

a. The following minimum off-street loading bays or berths shall be provided.

1) Office buildings, hotels, and motels with a gross floor area of more than 25,000 square feet require one bay.

2) Except in the Downtown zones, retail, wholesale, warehouse and industrial operations with a gross floor area of more than 5,000 square feet require the following: (Amended Ord. 902, May 7, 2008, Amended Ord. 930, November 18, 2010)

Table 17.20.060.9.a Minimum Loading Bay Requirements

Square Feet (gross floor area)	Number of Bays
5,001 to 40,000	1
40,001 to 70,000	2
70,001 to 100,000	3
100,001 to 140,000	4

Each 90,000 square feet over 140,000 square feet requires one additional bay.

In the Downtown zones loading bays are not required. However, site design for retail trade uses and eating and drinking places shall provide for delivery access from an alley where possible and shall otherwise allow delivery vehicles to park in such a manner as to not block a sidewalk or driveway entrance from a street. (Added Ord. 902, May 7, 2008, Amended Ord. 930, November 18, 2010)

b. Each loading bay shall be a minimum of 12 feet wide and 14 feet high. Truck parking in front of the bay shall be a minimum of 40 feet long exclusive of streets, alleys, driveway, or sidewalks.

c. Loading spaces shall be designed so delivery or shipment vehicles do not block access aisles of parking areas, any parking spaces, or extend into a public right-of-way.

d. No loading area shall be located within 10 feet of a street curb or 5 feet of a front lot line.

9-A. BICYCLE PARKING REQUIREMENTS

1) The spaces required for bicycle parking is defined in Table 17.20.060.9-A.1. Fractional numbers of spaces shall be rounded up to the next whole space.

Table 17.20.060.9-A.1 Bicycle Parking Requirements

Land Use Category	Minimum Required Bicycle Parking Spaces
Residential	
Single-family	Exempt
Multi-family residential, general	1 space per 5 units
Multi-family residential, seniors or with physical disabilities	Exempt
Institutional	
Schools – Elementary	4 spaces per classroom
Schools – Jr. High or Middle School	4 spaces per classroom
Schools – High School	2 spaces per classroom
College	1 space per 10 student
Transit Centers and Park & Ride Lots	5% of auto spaces (or 100% of demand depending on accessibility to bicyclists)
Religious Institutions	1 space per 50 seat capacity
Hospitals	1 space per 20 beds
Libraries, Museums	1 space per 1,000 ft 2
Commercial	
Retail Sales	1 space per 5,000 ft ^{2}
Auto-oriented Services	Exempt
Groceries/Supermarkets	1 space per 5,000 ft ^{2}
Office	1 space per 1,000 ft ^{2}
Restaurant	1 space per 1,000 ft ^{2}
Drive-In Restaurant	2 space per 1,000 ft ^{2}
Shopping Center	1 space per 5,000 ft ^{2}
Financial Institutions/Banks	1 space per 1,000 ft ^{2}
Theaters, Auditoriums	1 space per 50 seat capacity
Industrial	
Industrial Park	1 per 10,000 ft ^{2}
Warehouse	2 or 0.1 space per 1000 ft ^{2}, whichever is greater
Manufacturing	2 or 0.15 space per 1000 ft ^{2}, whichever is greater
Other Uses	For uses not defined in this table, The Planning Commission shall have the authority to set bicycle parking requirements.

a. Bicycle parking spaces shall be at least 6 feet long and 2 feet wide. If the bicycle parking space is covered, then it shall have an overhead clearance of at least 7 feet. For covered bicycle parking, the covering shall extend at least 2 feet beyond the parking area.

b. To provide for bicycle maneuvering, an aisle of 5 feet shall be provided and maintained beside or between each row of bicycle parking.

(Section 9-A Added Ord. 913, September 2, 2009)

10. DEVELOPMENT REQUIREMENTS. All parking and loading areas shall be developed and maintained as follows: (Amended Ord. 913, September 2, 2009)

a. The location of parking and loading, except for single family dwellings, duplexes, or triplexes, which may be located within the front yard, shall meet the applicable standards of Sections 17.20.190 or 17.20.200.

b. Surfacing. All driveways, parking and loading areas shall be paved with asphalt or concrete surfacing and shall be adequately designed, graded, and drained as required by the Public Works Director. In no case shall drainage be allowed to flow across a public sidewalk. Parking areas containing more than 5 parking spaces shall be striped to identify individual parking spaces.

c. Driveways. The following standards shall apply to all driveways:

1) Residential lots with 3 or fewer dwelling units sharing a driveway shall have 16 feet of paved width with 20 feet of clear width.

2) Residential lots with 4 or more dwelling units sharing a driveway shall have 18 feet of paved width with 24 feet of clear width

d. Design of parking areas. Except where provided for by subsection 7 of this section parking area design shall comply with Title 12 and Standard Specifications.

1) Entrances and exits shall be clearly marked with pavement markings and/or signs. Entrances and exits should favor right hand turns into and out of the area where possible and should be located at least 50 feet from intersections where possible. (Amended Ord. 913, September 2, 2009)

2) Backing into or across a street, sidewalk, or right-of-way from any parking area shall be prohibited. The perimeter shall prevent access to or from the parking area except at designated entrances and exits. (Amended Ord. 913, September 2, 2009)

e. Screening. When any development with over 6 parking spaces or a loading area is adjacent to any residential district, that area shall be screened from all adjacent residential properties. Screening shall be done with an ornamental fence, wall, or hedge at least 4 feet high but not more than 7 feet high, except along an alley.

f. Lighting. Any light used to illuminate a parking or loading area shall meet the standards of Section 17.20.170.

11. PARKING AREA LANDSCAPING DESIGN STANDARDS. Landscaping required by the following standards shall be counted towards the overall landscaping requirements of Section 17.20.090. (Amended Ord. 913, September 2, 2009)

a. Perimeter Landscaping. All parking areas shall be landscaped along the property boundaries as required by 17.20.090.11 (Amended Ord. 913, September 2, 2009)

b. Interior Landscaping. Interior landscaping of parking areas with 20 or more parking spaces shall meet the following standards. (Amended Ord. 913, September 2, 2009)

1) One landscaped island shall be required for every 10 parking spaces in a row. The interior islands shall be a minimum of 6 feet in width (as measured from the inside of the curb to the inside of the curb) and shall include a minimum of 1 tree per island.

2) Divider medians between rows of parking spaces ,that are a minimum of 6 feet in width (as measured from the inside of the curb to the inside of the curb) may be substituted for interior islands, provided that 1 tree is planted for every 40 feet and shall be landscaped in accordance with Section 17.20.090. 8. Where divider medians are parallel with the buildings, there shall be designated pedestrian crossings to preserve plant materials.

3) A row of parking spaces shall be terminated on each end by a terminal island that is a minimum of 6 feet in width (from the inside of the curb to the inside of the curb). The terminal island shall have 1 tree is planted and shall be landscaped in accordance with Section 17.20.090.8.

4) At the sole discretion of the decision authority, the requirement for landscaped islands or medians may be met through the design of additional parking area landscaping if the configuration of the site makes the use of islands or medians impractical. (Amended Ord. 913, September 2, 2009)

5) Approved Parking Area Trees. Tree species for parking area plantings shall be selected from a list of approved species maintained by the Director of Public Works. Other varieties may only be used with approval of the decision authority. (Amended Ord. 913, September 2, 2009)

6) Preservation of existing trees is encouraged in the off street parking area and the City Planner may allow these trees to be credited toward the required total number of trees.

c. Pedestrian Access. Off street parking areas shall be required to meet the following pedestrian access standards:

1) The off street parking and loading plan shall identify the location of safe, direct, well lighted and convenient pedestrian walkways connecting the parking area and the buildings.

2) All pedestrian walkways constructed within parking lots areas be raised to standard sidewalk height. (Amended Ord. 913, September 2, 2009)

3) Pedestrian walkways shall be attractive and include landscaping and trees.

17.20.070 OPEN STORAGE AREAS AND OUTDOOR STORAGE YARDS

1. Open Storage Areas. Where allowed by zoning districts, the development and use of open storage areas shall conform to the following standards.
   a. Open storage areas shall not occupy designated parking areas.
   b. Open storage areas located between the street right-of-way and the building shall not exceed 25% of the area between the front lot line and a parallel line drawn from the nearest point of the building.
2. Outdoor Storage Yards. Where allowed by zoning districts, the development and use of outdoor storage yards shall conform to the following standards.
   a. Outdoor storage yards that are adjacent to Commercial or Residential districts or are directly across the street right-of-way from those districts shall be enclosed with an ornamental, sight-obscuring fence or wall of at least 6 feet in height, or a compact evergreen hedge planted at 3 feet in height and capable of obtaining a minimum height of 6 feet.
   b. If any material or equipment projects above the 6 foot screen, then a screening plan must be submitted to the Planning Commission for approval.
   c. The surface of such area shall be maintained at all times in a dust-free condition, except that all driveways and loading areas shall be paved as required in Section 17.20.060.10.b.
   d. Any lighting maintained in conjunction with material and equipment storage areas shall be so oriented as to not shine on or reflect into abutting properties or streets.

17.20.080 SPECIAL STREET AND RIPARIAN SETBACKS

1. SPECIAL STREET SETBACKS. On the following named streets there shall be a minimum building setback of 50 feet, measured at right angles from the centerline of the street right-of-way:
   a. Ida Street, extending from N. Fourth Avenue to the west City limits
   b. First Avenue, from south City limits to north City limits.
   c. Washington Street, extending from N. Sixth Avenue to the west city limits.
   d. N. Sixth Avenue from Washington Street to E. Jefferson Street.
   e. E. Jefferson Street from N. Sixth Avenue to N. Tenth Avenue.
   f. East Santiam Road from N. Tenth Avenue to the east City limits on Mehama Road.
   g. Golf Club Road from Highway 22 to Shaff Road.
   h. Wilco Road
2. RIPARIAN SETBACK AND VEGETATION MAINTENANCE REQUIREMENTS.
   a. Application of Riparian Setback Standards. Setbacks for development as defined in this title shall be observed for all lands within the City adjacent to Mill Creek, Salem Ditch, Stayton Ditch, and the North Santiam River.
   b. Riparian Setback Areas. The riparian setback area for all new development other than a fence, sign, or pedestrian way, except as allowed under c. of this subsection, shall be 15 feet from normal high water along the Salem Ditch, Stayton Ditch and 35 feet along Mill Creek and the North Santiam River.
   c. Improvements Within Setback Areas. Along the Salem Ditch and Stayton Ditch, decks or patios attached to a dwelling which do not exceed 4 feet above ground level may extend into the setback area no more than 5 feet from normal high water.
   d. Vegetation Maintenance Standards. Within the riparian setback area, the following standards for maintenance of riparian vegetation shall apply:
      1) Along Mill Creek and the North Santiam River, no more of a parcel's existing riparian vegetation shall be removed from the setback area than is necessary for the placement or development, outside of the riparian zone, of use(s) permitted by the zoning district. Vegetation removed in such a manner shall, to the extent practicable, be replaced with similar or the same indigenous vegetation during the next planting season. In no case shall more than 25% by area on any given lot, of existing natural riparian vegetation shall be removed for any reason within the riparian setback area.
      2) Dead or diseased vegetation or vegetation which constitutes a hazard to public safety or a threat to existing healthy indigenous vegetation.
         a) Vegetation to be removed for pedestrian access (pathways) to, or along the waterway.
         b) Removal of vegetation necessary for the maintenance or placement of artificial or structural shoreline stabilization, provided a showing is made that natural erosion control measures or other non-structural solutions are not feasible and only where applicable state and federal standards are met.

c) Removal of blackberry vines, scotch broom, or other introduced or invasive species, provided that such vegetation is replaced with other species that are equally suited for ground cover and erosion control.

3) Along the Salem Ditch the setback area may be used for residential landscaping adequate to maintain soil stability.

e. Variance from Riparian Vegetation Requirements. Requests for relief from the above standards shall be processed pursuant to the variance process specified in Section 17.12.190.

17.20.090 LANDSCAPING AND SCREENING GENERAL STANDARDS

1. PURPOSE. The purposes of this Section are to provide a process and definable standards for landscaping, buffering, and screening of land use within the City of Stayton. The City recognizes the aesthetic and economic value of landscaping and encourages its use**:** to establish a pleasant community character, unify developments, and buffer or screen unsightly features**,** to soften and buffer large scale structures and parking lots**,** and to aid in energy conservation by providing shade from the sun and shelter from the wind**,** to prevent erosion and dust problems generated as a product of development**,** to aid in preventing excessive runoff due to increased impervious surfaces, and to protect and promote tree growth.

2. BASIC PROVISIONS**.** Landscaping and screening standards apply to all zones except the Low Density (LD) Residential and Commercial Core Mixed Use. The minimum area of a site to be retained in landscaping shall be as follows: (Amended Ord. 902, May 7, 2008, Amended Ord. 930, November 18, 2010)

Table 17.20.090.2 Minimum Landscape Percentage

Zoning District or Use	Minimum Improvement Per Lot
Medium Density (MD) Residential	20%
High Density (HD) Residential	20%
Commercial Retail (CR)	15%
Commercial General (CG)	15%
Downtown Commercial Mixed Use (DCMU)	8%
Downtown Residential Mixed Use (DRMU)	8%
Interchange District (ID)	15%
Industrial Commercial (IC)	15%
Light Industrial (IL)	
Lots 2.00 acres in area or less	15%
Lots larger than 2.00 acres but smaller than 4.00 acres	10%
Lots of 4.00 acres in area or more	8%
Public, Semi-Public (P)	15%

(Amended Ord. 902, May 7, 2008, Amended Ord. 930, November 18, 2010)

3. SUBMITTAL REQUIREMENTS FOR LANDSCAPE PLAN. The following information shall be included on a landscape plan:

   a. Lot dimensions and footprint of structure(s), drawn to scale.

   b. The dimensions and square footage of all landscaped areas, the total square footage of the parking lot**,** building square footage**,** and total number of parking spaces.

   c. The location and size of the plant species, identified by common and botanical names, and expected size within 5 growing seasons.

   d. The type and location of landscaping features other than plant materials**,** including, but not limited to, wetlands, creeks, ponds, sculptures, benches, and trash receptacles.

   e. Adjacent land**-**uses. For any residence within 50 feet of the subject site, indicates the building's location and its distance from the subject property boundary.

   f. Location and classification of existing trees greater than 4 inches caliper and measured at 4 feet above ground. Where the site is heavily wooded, only those trees that will be affected by the proposed development need to be sited accurately. The remaining trees may be shown on the plan in the general area of their distribution.

4. SUBMITTAL REQUIREMENTS FOR IRRIGATION PLAN. The irrigation plan shall indicate the source of water and show the materials, size and location of all components, including back flow or anti-siphon devices, valves, and irrigation heads.

   a. Minimum Landscape Standards.

      1) Appropriate care and maintenance of landscaping on-site and landscaping in the adjacent public right-of-way is the right and responsibility of the property owner, unless the Code specifies otherwise for general public and safety reasons. If street trees or other plant material do not survive or are removed, materials shall be replaced in kind within 1 year.

      2) Significant plant and tree specimens should be preserved to the greatest extent practicable and integrated into the design of the development. Trees of 25 inches or greater in circumference measured at a height of 4 feet above grade are considered significant. Plants to be saved and methods of protection shall be indicated on the detailed planting plan submitted for approval. Existing trees may be considered preserved if no cutting, filling, or compacting of the soil takes place between the trunk of the tree and the area 5 feet outside of the tree's drip line. Trees to be retained shall be protected from damage during construction by a construction fence located 5 feet outside the drip line.

      3) Planter and boundary areas used for required plantings shall have a minimum diameter of 5 feet inside dimensions. Where the curb or the edge of these areas are used as a tire stop for parking, the planter or boundary plantings shall be a minimum width of 7½ feet.

      4) In no case shall shrubs, conifer trees, or other screening be permitted within the sight distance triangle or where the City Engineer otherwise deems such plantings would endanger pedestrians and vehicles.

      5) Landscaped planters and other landscaped features shall be used to define, soften or screen the appearance of off street parking areas and other activity from the public street. Up to 25% of the total required landscaped area may be developed into pedestrian amenities, including, but not limited to sidewalk cafes, seating, water features, and plazas, as approved by the decision authority.

      6) All areas not occupied by parking lots, paved roadways, walkways, patios, or building shall be landscaped.

      7) All landscaping shall be continually maintained, including necessary watering, pruning, weeding, and replacing.

5. REQUIRED TREE PLANTINGS. Planting of trees is required along public street frontages~~,~~ and along private drives more than 150 feet long. Trees shall be planted outside the street right-of-way except where there is a designated planting strip or a City-adopted street tree plan.

   a. Street trees species shall be selected from a list of approved species maintained by the Director of Public Works. Other varieties may be used only with approval by the decision authority.

   b. Spacing of Street Trees. Trees with a medium canopy shall be spaced 20 feet on center. Trees with a large canopy shall be spaced 25 feet on center.

   c. Trees shall be trimmed to a height that does not impede sight distance, pedestrian traffic or vehicular traffic.

6. TREE PLANTING RESTRICTIONS. Street trees shall not be planted:
   a. Within 10 feet of fire hydrants and utility poles, unless approved otherwise by the City Engineer.
   b. Where the decision authority determines the trees may be a hazard to the public interest or general welfare.
   c. Under overhead power lines, if tree height at mature age exceeds the height of the power line.
7. IRRIGATION. Due to an increasing public demand for water and the diminishing supply, economic and efficient water use shall be required. Landscaping plans shall include provisions for irrigation. Specific means to achieve conservation of water resources shall be provided as follows:
   a. Any newly planted landscaped area shall have a permanent underground or drip irrigation system with an approved back flow prevention device.
   b. Wherever feasible, sprinkler heads irrigating lawns or other high-water demand landscape areas shall be separated so that they are on a separate system than those irrigating trees, shrubbery or other reduced-water requirement areas.
   c. Irrigation shall not be required in wooded areas, wetlands, along natural drainage channels, or stream banks.
8. REQUIREMENTS FOR PLANT MATERIALS.
   a. At least 75% of the required landscaping area shall be planted with a suitable combination of trees, shrubs, evergreens and/or ground cover. The intent of this Section is to avoid large expanses of lawn without other landscaping features and the decision authority shall determine what constitutes a suitable combination of landscape material as part of the review of each landscape plan. (Amended Ord. 913, September 2, 2009)
   b. Use of native plant materials or plants acclimated to the Pacific Northwest is encouraged to conserve water during irrigation.
   c. Trees shall be species having an average mature crown spread greater than 15 feet and having trunks which can be maintained in a clear condition so there is over 5 feet without branches. Trees having a mature crown spread less than 15 feet may be substituted by grouping trees to create the equivalent of a 15 foot crown spread.
   d. Deciduous trees shall be balled and burlapped or in a container, be a minimum of 7 feet in overall height or 1.5 inches in caliper measured at 4 feet above ground, immediately after planting. Bare root trees will be acceptable to plant only during their dormant season.
   e. Coniferous trees shall be a minimum 5 feet in height above ground at time of planting.
   f. Shrubs shall be a minimum of 2 feet in height when measured immediately after planting.
   g. Hedges, where required to screen and buffer off-street parking from adjoining properties shall be planted with an evergreen species maintained so as to form a continuous, solid visual screen, planted with a minimum height of 2 feet.
   h. Vines for screening purposes shall 30 inches in height immediately after planting and may be used in conjunction with fences, screens, or walls to meet physical barrier requirements as specified.

i. Turf areas shall be planted in species normally grown as permanent lawns in western Oregon. Either sod or seed are acceptable. Acceptable varieties include improved perennial ryes and fescues used within the local landscape industry.

j. Landscaped areas may include architectural features such as sculptures, benches, masonry or stone walls, fences, and rock groupings. The exposed area developed with such features shall not exceed 25% of the required landscaped area.

k. Landscaped areas may include minimal areas of non living ground covers where the applicant can demonstrate that plant ground covers are not appropriate. Artificial ground covers such as bark, mulch chips, gravel or crushed stone shall not exceed 15% of the landscaped area. This percentage shall be based on the anticipated size of landscape plants at maturity, not at planting.

l. Artificial plants are prohibited in any required landscaped area.

9. REPLANTING NATURAL LANDSCAPE AREAS

   a. Areas that are not affected by the landscaping requirements where natural vegetation has been removed or damaged through construction activity shall be replanted.

   b. Plant material shall be watered at intervals sufficient to assure survival and growth.

   c. The use of native plant materials or plants acclimated to the Pacific Northwest is encouraged to reduce irrigation and maintenance demands.

10. LANDSCAPING IN THE PLANTER STRIP. Except for portions allowed for parking, loading, or traffic maneuvering, the planter strip shall be landscaped. The planter strip shall not count as part of the lot area percentage to be landscaped.

11. BUFFER PLANTING-PARKING, LOADING AND MANEUVERING AREAS: Buffer plantings are used to reduce building scale, provide transition between contrasting architectural styles, and generally mitigate incompatible or undesirable views. They are used to soften rather than block viewing. Where required, a variety of plants shall be used to achieve the desired buffering effect.

   a. Buffering is required for any commercial, industrial, or multi-family development with more than 4 parking spaces. Buffering shall occur in the following manner:

      1) Any parking area, loading area, or vehicle maneuvering area shall be landscaped along property boundaries. The landscaped area shall meet the minimums in Table 17.20.090.11.a.1

Table 17.20.090.11.a.1 Buffering Requirements in Feet

Use of Property	Adjacent Use at Property Line				Adjacent Street		
	Single Family & Duplexes	Multi-Family Dwellings	Commercial	Industrial	Local	Collector	Arterial
Multi-family Dwellings	5	5	5	5	5	5	5
Commercial	10	5	0	0	15	10	10
Industrial	15	10	5	0	15	10	10

2) Decorative walls and fences may be used in conjunction with plantings~~,~~ but may not be used by themselves to comply with buffering requirements and must meet the standards of Section 17.20.050.

b. Landscaping with buffer strips may be counted towards meeting minimum percentage landscaping requirements.

12. SCREENING (HEDGES, FENCES, WALLS, BERMS). Screening is used where unsightly views or visual conflicts must be obscured or blocked and where privacy and security are desired. Fences and walls used for screening may be constructed of wood, concrete, stone, brick, and wrought iron, or other commonly used fencing/wall materials. Acoustically designed fences and walls are also used where noise pollution requires mitigation.

a. Height and Capacity. Where landscaping is used for required screening, it shall be at least 6 feet in height and be at least 80 percent opaque, as seen from a perpendicular line of sight, within 2 years following establishment of the primary use of the site.

b. Chain Link Fencing. A chain link fence with sight obscuring slats shall qualify for screening only if a landscape buffer is also provided.

c. Height Measurement. The height of fences, hedges, walls and berms shall be measured from the lowest adjoining finished grade, except where used to comply with screening requirements for parking, loading, storage, and similar areas. In these cases, height shall be measured from the finished grade of such improvements. Screening is prohibited within the sight distance triangle.

d. Berms. Earthen berms up to 6 in height may be used to comply with screening requirements. Slope of berms may not exceed 2:1 and both faces of the slope shall be planted with ground cover, shrubs and trees. Bark mulch or other non-living materials shall not be used as the ground cover for an earthen berm.

17.20.100 HOME OCCUPATIONS

In addition to any criteria applied by the zoning regulations or conditional use procedures which allow for home occupations, the following criteria and standards apply to such uses:

1. The occupation or activity shall be carried on by the resident or residents of a dwelling as a secondary use. No more than 1 employee (or equivalent of 1 full time employee) who is not a resident of the dwelling may be employed.
2. The home occupation shall be continuously conducted in such a way that does not create any off-premises nuisance including, but not limited to, noise, odors, vibrations, fumes, smoke, fire hazards, hazardous materials, traffic congestion, or electronic, electrical, or electromagnetic interference.
3. The home occupation is not limited as to type of activity, provided that the scale or intensity of the activity does not have the practical effect of rezoning the property to a commercial or industrial use.

   To determine if a home occupation does not have the practical effect of rezoning, the number of vehicle trips per day related to the business may not exceed 6 trips per day.
4. The home occupation shall be limited to a maximum area of 0.5 the floor area of the dwelling unit or 500 square feet, whichever is less, and the home occupation shall be located exclusively within the dwelling unit and/or an accessory building.
5. Structural alterations to accommodate home occupations are permitted, provided the residential character of the building(s) and property remains unchanged.
6. The repair or maintenance, including body repair and painting of automobiles, trucks, motorcycles, trailers, recreational vehicles, boats, all-terrain vehicles, and similar vehicles, shall be prohibited.
7. The outdoor storage of materials, products, equipment, or supplies shall be prohibited.
8. Customers and deliveries shall be limited to the hours of 9:00 am to 8:00 pm.
9. The property shall have off-street parking consistent with the parking space requirements in Section 17.20.060.7. One required residential parking space may be substituted for a required employee parking space. In addition, there shall be sufficient room on the premises to load and unload materials, supplies, and products.
10. Signs identifying the business shall be limited to 1 sign containing a maximum of 4 square feet of area. The sign may be attached flat against a wall of the home or accessory building or may be located within a window. Free standing signs and sign illumination shall be prohibited.
11. (Repealed, Ord. 898, August 20, 2007)

17.20.110 OCCUPANCY OF RECREATIONAL VEHICLES

Occupancy of a recreational vehicle unless located in a recreational vehicle park may be allowed for a period not in excess of 14 days in a 60-day period, provided the unit is parked on private property.

17.20.120 FINANCE PERFORMANCE REQUIREMENTS

1. PURPOSE. Financial performance requirements are necessary to provide reasonable and prudent guarantees to the City that proposed improvements required as part of an approved subdivision or development are properly implemented by the applicant, and to provide financial assurance to the City in the event that the applicant is unable to complete such improvements and the City is required to assume responsibility for completing the improvements.
2. APPLICATION. Financial performance requirements may be imposed as part of subdivision approval, site review approval, or conditional use approval.
3. DEPOSIT. The satisfaction of financial performance requirements may take one of the following forms, to be made a part of a financial performance agreement between the City and the applicant:
   a. Surety bond executed by a surety company authorized to transact business in the State of Oregon.
   b. Letter of credit or assignments of savings from a bank authorized to transact business in the State of Oregon.
   c. Personal bond co-signed by at least one additional person together with evidence of financial responsibility and resources of those signing the bond sufficient to provide reasonable assurance of ability to proceed in accordance with the agreement.
   d. Certified check or cash deposit with the City Recorder, interest upon which shall not be paid to the applicant.
4. Such financial assurance shall be for a sum approved by the City as sufficient to cover the cost of required development, improvements, or repairs, including related engineering and incidental expenses, and to cover the cost of inspection by the City or agents for the City. Financial performance deposits will be reviewed by the City Attorney and placed before the City Council for acceptance.
5. Failure of the applicant to properly carry out required development, improvements, or repairs within the time restrictions imposed as part of the approval action will, at the City's option, bring about forfeiture of the financial performance deposit and enable the City to call on the bond, letter of credit, assignment of savings, or cash deposits to reimburse costs or expenses which incur to the City. If the amount of the financial performance deposit is less than the cost or expense incurred by the City as a result of the applicant's action, the applicant shall be liable to the City for the difference.

17.20.130 MOBILE HOME PARKS

1. PURPOSE. The regulations contained herein are intended to provide a suitable living environment for the residents of mobile home parks within the City of Stayton and set forth standards of development that will be compatible with adjacent land uses. The requirements and standards set forth in this ordinance are the minimum standards to which a mobile home park must conform before approval.
2. METHOD OF ADOPTION. Mobile home parks are subject to site plan review and shall be approved pursuant to the requirements of Sections 17.12.070 through 17.12.100.
3. SUBMITTAL REQUIREMENTS. All applications submitted for approval of a mobile home park development shall consist of a preliminary development plan drawn to a scale of 1 inch equals not more than 50 feet. The application shall contain, but not be limited to, the following information in addition to the requirements of Section 17.12.220. (Amended Ord 1060, May 17, 2023)
   a. Name(s) of person owning and/or controlling the land proposed for the park.
   b. Name of the mobile home park and address.
   c. Boundaries and dimensions of the manufactured home park.
   d. Facility map showing relationship of manufactured home park to adjacent properties and surrounding zoning.
   e. Location and dimensions of each manufactured home site with each site designated by number, letter, or name.
   f. Location and dimensions of each existing or proposed building.
   g. Location and width of park streets and pedestrian ways.
   h. Location of recreational areas and buildings and common area.
   i. Location of available fire hydrants.
   j. Enlarged plot plan of a typical manufactured home space showing location of stand, storage space, parking and sidewalks, utility connections, and landscaping.
   k. The plan shall indicate positions of the manufactured homes on their stands so that the decision maker may determine entrances, setbacks, etc.
   l. Access features shall conform to the requirements set forth in Section 17.26.020. Section 17.26.020 also specifies submittal requirements for requesting an access permit and approval.
   m. A survey plat of the property.
   n. Schematic design drawings of all new structures.
   o. A water system plan prepared by a registered civil engineer meeting the requirements for approval of the State of Oregon Health Division.
   p. A sewerage system plan prepared in accordance with City standards.
   q. A drainage system plan showing all drainage system improvements on site including storm water runoff calculations showing that the system is sufficient to handle the runoff from a 5-year storm.
   r. Method of garbage disposal.

s. Park rules and regulations that will be recorded as deed covenants on the property.

4. DESIGN STANDARDS. The following standards and requirements shall govern the design of a mobile home park. The City may require that specific standards be included within covenants and restrictions to be recorded on the land.

a. A mobile home park shall not be less than one acre in area. (Amended Ord 1060, May 17, 2023)

b. Lots or spaces within the park shall contain a minimum of 3,500 square feet with a width of no less than 35 feet.

c. Only 1 manufactured home shall be permitted on a lot or space.

d. No building, structure, or land within the boundaries of a mobile home park shall be used for any purpose except for the uses permitted as follows:

1) Manufactured homes for residential uses only, together with the normal accessory uses such as cabana, patio slab, ramada, carport or garage, and storage and washroom building.

2) Private and public utilities and services as permitted by City approval.

3) Community recreation facilities, including swimming pool, for the residents of the park and guests only.

4) One residence for the use of a manager or a caretaker responsible for maintaining or operating the property.

e. All manufactured homes shall be located at least 20 feet from the property boundary line abutting upon a public street, 100 feet from the center line of a state highway and at least 10 feet from other boundary lines, except that when a sound deadening fireproof barrier, such as an earthen berm or brick wall is provided, the Planning Commission may allow the 10-foot setback to be reduced to 5 feet, but not the 20-foot setback or the 100-foot setback. (Ord. 898, August 20, 2007) (Amended Ord 1060, May 17, 2023)

f. Manufactured homes shall not be located closer than 15 feet from any other manufactured home or permanent building within the manufactured home park nor closer than 10 feet to any park or private roadway. Manufactured home accessory buildings, when not attached to the manufactured home, shall not be closer than 3 feet from any manufactured home or structure.

g. Ramadas, cabanas, awnings, carports, and other attached structures shall be considered part of the manufactured home for setback purposes.

h. All manufactured homes not having a concrete perimeter foundation shall be provided with a foundation stand which shall be improved to provide adequate support for the placement of the manufactured home. The stand shall be all-weather surfaced with asphalt, concrete, or crushed rock and must be at least as large as the manufactured home placed upon it. The stand shall be constructed so that it will not heave, shift, or settle unevenly under the weight of the manufactured home due to frost action, inadequate drainage, vibration, wind, or other forces acting on the structure.

i. All manufactured homes shall be required to provide foundation, minimum exterior finishing, and construction of accessories in compliance with the standards of the zoning district in which they are located. All awnings, carports, cabanas, etc., constructed shall be of material, size, and color and pattern so as to be compatible with the manufactured home and shall comply with applicable codes.

j. A mobile home park shall have a minimum 40-foot wide property line frontage to either a collector or arterial street.

k. The mobile home park entrance shall be designed to provide a clearly defined main entry and exit point to the park. Secondary entry points may be required to provide ingress and egress for emergency vehicles. The main entry shall include street lighting and a sign(s) identifying the name of the park and providing direction to the manager's office or residence. Controlled ingress and egress may be installed subject to decision authority approval of design.

l. Two off street parking spaces shall be provided at each manufactured home space. Also, additional parking space shall be provided in parking areas distributed around the park (not part of the common area) not to be less than 1 parking space per 10 units. All off street parking spaces shall meet City standards.

m. Adequate street lighting shall be provided within the park in accordance with a plan approved by the Planning Commission.

n. All utilities shall be installed underground unless otherwise approved by the Planning Commission.

o. Approved fire hydrants shall be installed so that all manufactured homes, recreational vehicles, and other structures are within 300 feet down the center line of a street of an approved fire hydrant.

p. The owner or operator of a manufactured home park shall provide individual mail boxes or distribution facilities for incoming mail, and at least 1 collection box for outgoing mail which shall be located in coordination with the post office.

q. Buffering or screening shall be installed along park boundaries in accordance with a landscaping plan approved by the Planning Commission. All buffering or screening shall be in the form of a sight obscuring fence, wall, evergreen or other suitable planting, at least 6 feet high.

r. Fences or windbreaks exceeding 42 inches high shall be no closer than 3 feet to any structure or manufactured house. Maximum height of all fences, except swimming pool fences and perimeter barriers, shall be 6 feet.

s. Swimming pools shall be set back at least 50 feet from the nearest residential area and will have a fence surrounding it 8 feet high which does not obscure vision into the pool area. The swimming pool shall be operated and maintained pursuant to the standards and requirements of the Oregon State Board of Health regulations.

t. There shall be landscaping within the front and side areas of each manufactured home lot setback and in all open areas of the manufactured home park not otherwise used for park purposes. Landscaping shall be installed in accordance with a landscaping plan approved by the decision authority. The maintenance of the open spaces shall be necessary to continue renewals of the park license.

u. In the mobile home park, all refuse shall be stored in insect proof, animal proof, water tight containers which should be provided in sufficient numbers and capacity to accommodate all refuse in the park. Refuse containers shall be enclosed by sight obscuring fence or screening and situated on a concrete pad. Refuse shall be collected and disposed of on a regular basis in accordance with City garbage franchise regulations.

v. If storage yards for recreational vehicles, boats, or trailers are provided, it should be provided at the rate of up to 100 square feet per manufactured home space depending on the clientele served. An 8-foot high sight obscuring fence with a lockable gate should be erected around the perimeter of the storage yard. If no storage space for recreational vehicles is provided, storage shall not be permitted within the park boundaries.

w. Pedestrian walkways shall be separated from vehicular traffic ways and maintained to provide safe and convenient movement to all parts of the park and connect to ways leading to destinations outside the park. Sidewalks shall be at least 3 feet wide and be composed of concrete or bituminous concrete at least 3 inches thick.

x. Although it will not be necessary for vehicular ways to be improved and maintained to City standards, all vehicular ways shall be based, graded, and paved with asphalt or concrete and shall be continuously maintained by the owner.

y. Minimum park street improvement width for shall be 14 feet for a one-way local street and 20 feet for a two-way local street.

5. OPERATIONAL STANDARDS.

a. Alterations and Additions. The owner and management shall be held responsible for all alterations and additions to a mobile home park, and shall make certain that all permits and inspections are obtained from the proper authorities.

1) Prior to the placement of any unit in a mobile home park a building permit shall be obtained from Marion County through the City of Stayton Public Works Department. (Added Ord. 944, March 5, 2012)

2) All units shall be installed in accordance with the Oregon Manufactured Dwelling Installation Specialty Code. (Added Ord. 944, March 5, 2012)

3) All units shall bear an Oregon insignia of compliance or a Housing and Urban Development Certification Label. (Added Ord. 944, March 5, 2012)

b. Electrical Connections. All electrical connections shall comply with the State of Oregon electrical code and be duly inspected.

c. Fire Extinguishers. Portable fire extinguishers rated for classes A, B and C shall be kept in service buildings and at other locations conveniently and readily accessible for use by all occupants and be maintained in good operating conditions.

d. Fire Hazards. The owner of the park shall be responsible for maintaining the park free of any brush, leaves, and weeds which might facilitate the spread of fires between manufactured homes and other buildings in the park. The owner shall also be responsible to insure that no combustible materials are stowed in, around, or under any manufactured home occupying a manufactured home space.

e. Inspections. The building official may check each park a minimum of once a year and submit to the park owner and manager a written report stating whether or not the park is in compliance with these standards. If not in compliance, the owner must make repairs as are required or will be considered to be in violation of this code and subject to enforcement action. An extension of no more than 1 year to make repairs may be made by the decision maker, if it can be shown that risk to public health, safety, or welfare will not be created by this extension.

f. Management Responsibilities. The owner, operator, resident manager**,** or similar supervisor or representative of the owner shall be available and responsible for direct management of the manufactured home park while it is in use.

g. Refuse Burning. Burning of refuse will not be permitted.

h. Refuse and Debris Control. All manufactured home parks shall be maintained free of accumulations of refuse or debris which may provide rodent harborage or breeding places for flies, mosquitoes, or other pests. All units shall have an adequate garbage container as determined by the Marion County Health Officer.

i. Storage of Materials. Storage of decomposing combustible or other unhealthy or unsafe materials inside or beneath any manufactured home is not permitted, but may be allowed in an outside accessory building if such installation is approved. (Amended Ord 1060, May 17, 2023)

j. Water and Sewer Connections. All manufactured homes, service buildings, etc., shall be connected to an approved water and sewer system.

k. Ownership and Maintenance of Water, Sewer and Storm Drainage Facilities. All water and sewer lines within the manufactured home park shall be privately owned, unless the City requests that the lines and public utility easements be granted to the City. Unless the City requires that they be made public, all sewer, water, and storm sewer lines and drainage ways shall be continuously maintained to City standards at the sole obligation and expense of the park owners.

l. Park Administration.

1) It shall be the responsibility of the park owner(s) and manager to see that the provisions of this ordinance are observed and maintained within their park, and for failure to do so the owner and manager shall be subject to the penalties provided for violation of this ordinance.

2) Manufactured home park spaces shall be rented or leased only.

3) A minimum of 1/3 of the spaces must be available for occupancy before first occupancy is permitted.

17.20.140 SIGNS

1. PURPOSE. The purposes of these sign regulations are to provide equitable signage rights; reduce signage conflicts; promote traffic and pedestrian safety; and increase the aesthetic value and economic viability of the city by classifying and regulating the location, size, type, and number of signs and related matters.
2. PERMIT PROCEDURES.
   a. Permit Required. No person shall construct or alter any sign without first obtaining a permit from the City Planner.
   b. Current Signs. Owners of legally existing signs shall not be required to obtain a sign permit. (Amended Ord. 985, September 14, 2015)
   c. Application Requirements.
      1) An application for a sign permit shall be submitted on a form prescribed by the City.
         a) Within 7 days of submittal the City Planner shall determine whether the application is complete.
         b) Within 14 days of submission of a complete application, the City Planner shall either: approve, approve with conditions, or deny the application.
         c) The decision shall be issued in writing.
      2) Sign permits mistakenly issued in violation of these regulations or other provisions of the Code are void. The Stayton City Administrator may revoke a sign permit if it is found that material errors or misstatements of fact were made by the applicant on the permit application.
      3) The sign permit does not take the place of any other permits (e.g. structural, mechanical, electrical) which may be required to construct or locate an approved sign. (Amended Ord. 985, September 14, 2015)
   d. Permit Fees. Permit fees shall be established by City Council resolution.
   e. Construction and Maintenance. All signs shall be designed, constructed, and maintained in accordance with the following standards:
      1) All signs shall comply with the applicable provisions of the Oregon Structural Specialty Code in effect at the time of the sign permit application and all other applicable structural, electrical, and other regulations. Issuance of a sign permit under these regulations does not relieve the applicant of complying with all other permit requirements. (Amended Ord. 924, September 20, 2010)
      2) Except for temporary signs, signs shall be constructed of durable materials and be firmly attached to the ground, to a building, or to another structure by direct attachment to a rigid wall, frame, or structure.
      3) All signs shall be maintained in a good structural condition and be readable at all times. Sign supports shall be plumb. Broken faces of signs shall be repaired within 45 days of the date of damage. Failed illumination shall be replaced or repaired within 45 days of the date of failure of the lighting fixture or wiring defect. The provisions of this section shall apply to all signs within the City, including those not meeting these standards on the effective date of this provision. (Amended Ord. 924, September 20, 2010) (Amended Ord. 985, September 14, 2015)

3. SIGNS GENERALLY PERMITTED. Subject to the limitations listed in this subsection, the following signs and sign erection or alterations are permitted in all zones. These signs shall not require a permit and shall not be included when determining compliance with total allowed area:

   a. Painting or otherwise changing the sign face or copy, and maintenance of legally existing signs. If structural changes are made, the sign shall conform in all respects to these regulations.

   b. Signs not exceeding 32 square feet which advertise the sale, rental, or lease of the premises upon which the sign is located.

   c. Signs posted by or under governmental authority, including legal notices, traffic, danger, no trespassing, emergency, and signs related to public services or safety.

   d. One sign, not to exceed 32 square feet, at each street entrance of a residential development or subdivision.

   e. Incidental signs not exceeding 6 square feet.

   f. Official national, state, and local government flags and a National League of Families' POW/MIA flag on permanent flag poles designed to allow the raising and lowering of flags:(Amended Ord. 985, September 14, 2015)

      1) One flag pole per property is exempt from the provisions of these regulations. (Amended Ord. 985, September 14, 2015)

      2) In a residential zone, a flag structure shall not exceed 35 feet. (Amended Ord 937, August 4, 2011)

      3) In a Commercial, Industrial or Downtown zone, a flag structure shall not exceed 35 feet or 110 percent of the maximum height of the primary structure on the property, whichever is greater. (Amended Ord 937, August 4, 2011)

      4) All structures over 10 feet in height supporting flags require a Building Permit and an inspection(s) of the footing and structure, as per the building code, prior to installation of the structure.

   g. Signs within a building that are not visible from the street, sidewalk or other public property.

   h. Signs painted or hung on the inside of a window or door. (Amended Ord. 985, September 14, 2015)

   i. Commercial murals shall count as a sign in determining total sign area for a business. Murals that do not advertise or identify a business, with a cultural or heritage theme, are not considered commercial signs and are exempt from this Section. (Amended Ord. 985, September 14, 2015)

   j. Name signs, not exceeding 2 square feet, identifying the occupants of a dwelling.

   k. Restoration, repair, or replacement of signs that have been demonstrated by the owner to have been in existence since January 1, 1949, provided the sign substantially retains its original appearance and location.

   l. Temporary and portable signs, no larger than 16 square feet in area, announcing community events. Banners hung with the guy wires located on First Avenue between Cedar and Regis Streets, are permitted for up to four weeks in advance of the event and shall be removed

within 5 days of the end of the event. Banners shall be no larger than 80 square feet in area. (Amended Ord. 913, September 2, 2009)

m. Other portable signs in conformance with the requirements of Section 17.20.140.9-B.b. (Added Ord. 985, September 14, 2015)

4. PROHIBITED SIGNS. The following signs shall be prohibited:

a. Balloons or similar tethered objects.

b. Roof signs.

c. Signs emitting an odor, visible matter, or sound.

d. Signs supported by guy wires of any type except for the guy wires located on 1st Avenue between Cedar and Regis Streets.

e. Signs that obstruct a fire escape, required exit, window, or door opening used as a means of egress.

f. Signs closer than 24 inches horizontally or vertically from any overhead power line or public utility guy wire.

g. Rotating/revolving signs.

h. Flashing signs. (Amended Ord. 985, September 14, 2015)

i. Signs that project into or over driveways or public rights-of-way, except signs that project over a public sidewalk. Such sign shall not be less than eight feet above the ground. (Amended Ord. 985, September 14, 2015)

j. Signs within the sight clearance triangle that obstruct the required vision areas or represent a hazard to pedestrian or vehicle traffic.

k. Signs that interfere with, imitate, or resemble any official traffic control sign, signal, or device; emergency lights; or which appear to direct traffic (e.g., a beacon light).

l. Signs attached to any pole, post, utility pole, or placed by its own stake in the ground in a public right-of-way. This restriction shall not apply to bulletin boards for public use as authorized by the City Council.

m. [Repealed Ord. 985]

n. Any new or relocated off-premise sign, unless specifically allowed as a permitted sign in this sign code.

o. No vehicle or trailer shall be parked for more than 72 hours so as to be visible from a public right-of-way which has attached thereto or located thereon any sign or advertising device for the basic purpose of providing advertisement of products or directing people to a business or activity located on the same or another premises, unless such sign meets the requirements of this section. This provision applies only to a vehicle the primary purpose of which is advertisement; it is not intended to prohibit any form of sign attached to or on a vehicle the primary use of which is for business purposes other than advertising. (Amended Ord. 985, September 14, 2015)

p. Signs on city property placed by a nongovernmental entity.

q. Free standing and illuminated signs for all home occupations.

5. ILLUMINATION OF SIGNS

   a. No sign shall be comprised of or illuminated by intermittent light except message signs. (Amended Ord. 985, September 14, 2015)

   b. Externally Illuminated Signs

      1) The average level of illumination on the vertical surface of the sign shall not exceed 3.0 foot-candles, and the uniformity ratio (the ratio of average to minimum illumination) shall not exceed 2:1.

      2) Lighting fixtures illuminating signs shall be carefully located, aimed, and hooded or shielded to prevent direct illumination of public streets or abutting properties.

      3) Light fixtures illuminating signs shall be of a type such that the light source (bulb) is not directly visible from adjacent public streets or properties.

      4) To the extent practicable, fixtures used to illuminate signs shall be top mounted and directed downward (i.e. below the horizontal).

   c. Internally Illuminated Signs.

      1) Internally lit signs are permitted only in the commercial, industrial, public, and downtown zones.(Amended Ord. 985, September 14, 2015)

6. NONCONFORMING SIGNS.

   a. Alteration of Nonconforming Sign Faces. Legally existing nonconforming signs are subject to the following provision regarding alteration.

      1) A change in sign face alone is allowed without requiring compliance with these regulations.

      2) When a nonconforming sign face is damaged or destroyed, such sign face may be restored to its original condition provided such work is completed within sixty days of the damage. However, a sign structure or support mechanism so damaged shall not be replaced except in conformance with the provisions of these regulations.

   b. Permits for Properties with Nonconforming Signs.

      1) [repealed Ord. 924]

      2) [repealed Ord. 924]

      3) Nonconforming Sign Area. All signs in existence as of the date of the permit application shall be included in the total allowed area, number, or size when reviewing applications for new or altered signs to be allowed on the property.

   c. Abatement of Nonconforming Signs.

      1) All permanent, free-standing signs, and wall, canopy, projecting or other similar permanent signs in existence on the effective date of these regulations, which are not in conformance with the provisions of these regulations may be repaired, maintained (including a change in sign face) until such time the sign structure is altered, at which time the sign must conform to applicable sign regulations. (Amended Ord. 924, September 20, 2010)

      2) [repealed Ord. 924]

      3) [repealed Ord. 924]

4) Existing permanent signs on properties annexed to the city shall be in conformance with the provisions of these regulations within one year following annexation. Temporary signs shall conform to the regulations within 6 months following annexation. (Amended Ord. 924, September 20, 2010) (Amended Ord. 985, September 14, 2015)

d. Abandoned Signs. All signs for a business shall be removed within 30 days after that business ceases to operate on a regular basis. The sign structure shall be maintained in accordance with Section 17.20.140.2.e.3). (Amended Ord. 985, September 14, 2015)

7. SIGNS IN THE PUBLIC/SEMI-PUBLIC ZONE. The following regulations apply to signs in the Public/Semi-public zone:

a. Any combination of wall, canopy, projecting, free-standing, and window signs not exceeding the sign area and height limitations set forth below shall be allowed. (Amended Ord. 985, September 14, 2015)

b. Total signage area on a property shall not exceed 64 square feet. However, a use with more than 100,000 square feet of gross floor area may have up to 600 square feet of sign area. (Amended Ord. 985, September 14, 2015)

c. Maximum Sign Height.

1) Wall or wall mounted signs shall not project above the parapet or roof eaves.

2) A monument sign shall not exceed 6 feet in height. Any other free-standing sign shall not exceed a total height of 6 feet within the first 10 feet of a property boundary; otherwise, the maximum height is 16 feet.

d. Permitted Locations.

1) A wall sign may project no more than 1.5 feet from the building. (Amended Ord. 985, September 14, 2015)

2) A canopy or projection sign may project up to 3 feet from the building, and may project into a street right-of-way. However, any portion of a canopy or projecting sign that projects over a street right-of-way shall be at least 8 feet above ground level. (Added Ord. 985, September 14, 2015)

3) A free-standing sign shall be setback at least 5 feet from any property line.

e. [Repealed Ord. 985]

8. SIGNS IN RESIDENTIAL ZONES. Other than signs permitted under Section 17.020.140.3, signs in the Residential zones are limited to signs for home occupations. Home occupation signs are subject to the provisions of Section 17.020.100.10.

9. SIGNS IN COMMERCIAL AND INDUSTRIAL ZONES. The following regulations shall apply to signs commercial and industrial zones:

a. Signs for businesses not in integrated business centers:

1) Total Allowed Area. The total allowed sign area of all signs for a business not in an integrated business center is two square feet of for each lineal foot of building frontage up to a maximum of 100 square feet.

2) Type, Maximum Number, and Size of Signs. Within the total allowed signage area, one free-standing sign for each street frontage, and one wall, canopy or projecting sign is permitted. A free-standing sign shall be limited to a maximum of 50% of the total allowed sign area. (Amended Ord. 985, September 14, 2015)

3) Maximum Sign Height.

a) Wall or wall mounted signs shall not project above the parapet or roof eaves.

b) A monument sign shall not exceed 6 feet in height. Any other free-standing sign shall not exceed a total height of 6 feet within the first 10 feet of a property boundary; otherwise, the maximum height is 16 feet.

4) Location.

a) Wall or canopy signs may project up to 1.5 feet from the building.

b) Projecting signs may project up to 3 feet from the building, and may project into a street right-of-way. However, any portion of a canopy or projecting sign that projects over a street right-of-way shall be at least 8 feet above ground level. (Amended Ord. 985, September 14, 2015)

c) Monument signs shall not project over street rights-of-way and they shall not be located within a sight clearance triangle or special street setback. Other free-standing signs shall be setback a minimum of 5 feet from any property line. Any sign located within a sight clearance triangle shall either be no taller than 3 feet in height or have the lowest portion of the sign at least 8 feet in height.

b. Signs for integrated business centers.

1) Total Allowed Area.

a) Signs attached to a building for an individual business within an integrated business center shall be no larger than one square foot of sign area for each lineal foot of building frontage for the individual business, up to a maximum of 80 square feet per business. If a building is located more than 50 feet from the front lot line, the maximum sign area may be increased by 50%. If a building is located more than 100 feet from the front lot line, the maximum sign area may be increased by 100%. Individual businesses may not assign their unused allowed area to other businesses in the integrated business center.

b) Integrated business center. One free-standing sign is permitted for each street on which an integrated business center has frontage. If there is only one street frontage, the sign shall not exceed 150 square feet in area; otherwise, the maximum sign area for each sign shall be 100 square feet.

c) Businesses that are located in an individual building within the integrated business center may have one freestanding sign in addition to the freestanding sign for the center. The sign shall be no larger than 40 square feet in sign area, no taller than 8 feet above ground, and shall be located within 30 feet of the building in which the business is located. (Added Ord. 985, September 14, 2015)

2) Maximum Sign Height.

a) Wall or wall mounted signs shall not project above the parapet or roof eaves.

b) A monument sign shall not exceed 6 feet in height. Any other free-standing sign shall not exceed a total height of 6 feet within the first 10 feet of a property boundary; otherwise, the maximum height is 16 feet.

3) Location.

a) Wall or canopy signs may project up to 1.5 feet from the building.

b) Projecting signs may project up to 3 feet from the building, and may project into a street right-of-way. However, any portion of a projecting sign that projects over a street right-of-way shall be at least 8 feet above ground level. (Added Ord. 985, September 14, 2015)

c) Monument signs shall not project over street right-of-way and they shall not be located within a sight clearance triangle or special street setbacks.

d) Other free-standing signs shall be setback a minimum of 5 feet from any property line. Any sign located within a sight clearance triangle shall either be no taller than 3 feet in height or have the lowest portion of the sign at least 8 feet in height.

c. Additional Signs. Within the limitation of this subsection, the types of sign discussed in this subsection do not require a permit and are not included in calculations for allowed area and number of signs:

1) When a business has two public entrances on separate building walls, there is permitted one additional wall sign not to exceed 10 square feet in area for the wall where the entrance is not the primary entrance.

2) Directional signs (e.g., "Exit" or "Entrance") are allowed either as wall or free-standing signs. Each such sign shall be limited to three square feet in area and there shall be no more than two signs per driveway. Free-standing directional signs shall be limited to a height of 4 feet.

3) Order signs describing products and/or order instructions to a customer (e.g., menu boards at a drive-through restaurant) shall be limited to 40 square feet in area and a maximum height of 8 feet. (Amended Ord. 985, September 14, 2015)

d. [Repealed Ord. 985]

e. [Repealed Ord. 985]

9-A. SIGNS IN THE DOWNTOWN ZONES. The following regulations shall apply to signs in the Downtown Zones. (Added Ord. 902, May 7, 2008)

a. Sign Types and Maximum Number of Signs. Within the CCMU, DCMU, and DRMU zones, in addition to any combination of wall, canopy, projecting and window signs, one free-standing sign for each street on which the lot fronts may be erected between a building and the front lot line provided the building is at least 20 feet from the front lot line. (Added Ord. 902, May 7, 2008) (Amended Ord. 930, November 18, 2010) (Amended Ord. 985, September 14, 2015)

b. Number of Signs. Each business may have one wall, canopy or projecting sign attached to a building for each side of the building facing a street or public sidewalk the business occupies, not including awning signs. (Added Ord. 902, May 7, 2008)

c. Total Allowed Area. The total allowed sign area for any wall, canopy or projecting signs for a business is one square foot of sign area per lineal foot of building frontage for the individual business. The maximum sign area for any free-standing sign is 30 square feet. (Added Ord. 902, May 7, 2008) (Amended Ord. 924, September 20, 2010) (Amended Ord. 930, November 18, 2010) (Amended Ord. 985, September 14, 2015)

d. Maximum Sign Height. Wall or wall-mounted signs shall not be taller than 20 feet and shall not project above the parapet or roof eaves. A free-standing sign shall not exceed 12 feet in height. (Added Ord. 902, May 7, 2008) (Amended Ord. 924, September 20, 2010) (Amended Ord. 985, September 14, 2015)

e. Location. (Added Ord. 924, September 20, 2010)

1) Wall or canopy signs may project up to 1.5 feet from the building. (Added Ord. 924, September 20, 2010)

2) Projection signs may project up to 3 feet from the building. Any portion of a projection sign that projects over a street right-of-way shall not be less than 8 feet above the ground level. (Added Ord. 924, September 20, 2010) (Amended Ord. 985, September 14, 2015)

3) Free-standing signs shall be setback a minimum of 5 feet from any property line. Any sign located within a sight clearance triangle shall either be no taller than 3 feet in height or have the lowest portion of the sign at least 8 feet in height. (Added Ord. 924, September 20, 2010)

f. [Repealed Ord. 985]

9-B. TEMPORARY AND PORTABLE SIGNS (Added Ord. 985, September 14, 2015)

a. Temporary Signs. No more than two temporary signs per business shall be permitted at any one time. Temporary signs shall conform to the following: (Added Ord. 985, September 14, 2015)

1) A temporary sign shall not exceed 16 square feet in area. (Added Ord. 985, September 14, 2015)

2) The placement of temporary signs shall be limited to a period not exceeding 90 days within any calendar year. This restriction applies to the display of all temporary signs throughout a calendar year and not to each individual sign. (Added Ord. 985, September 14, 2015)

3) Except in a Public/Semi-Public Zone, a temporary sign shall not be located within the public right-of-way or violate vision clearance provisions. In a Public/Semi-Public Zone, a temporary sign may be located in the public right of way, when the right of way exceeds 60 feet in width and there is a landscape strip between curb and sidewalk that exceeds five feet in width. A temporary sign in the public right of way shall be placed a minimum of three feet behind the curb and shall be placed a minimum of 50 feet from a driveway or street intersection. (Added Ord. 985, September 14, 2015) (Amended Ord. 1024, September 19, 2018)

4) A newly opened business may have a temporary sign for up to 180 days while waiting for a permanent sign to be manufactured and installed. (Added Ord. 985, September 14, 2015)

b. Portable Signs. No more than one portable sign per business shall be permitted at any one time. Portable signs shall conform to the following: (Added Ord. 985, September 14, 2015)

1) Except for public safety, all trailer-mounted reader boards shall be prohibited. (Added Ord. 985, September 14, 2015)

2) The maximum permitted area shall be 12 square feet per display surface. (Added Ord. 985, September 14, 2015)

3) The maximum height shall be four feet above ground level. (Added Ord. 985, September 14, 2015)

4) Except in the Downtown Zones, portable signs for businesses not within an integrated business center shall be located on the property on which the business is located. Portable signs within an integrated business center shall be located between the building and parking area and immediately in front of the business. (Added Ord. 985, September 14, 2015)

5) In the Downtown Zones a portable sign may be erected on the public sidewalk in conformance with the following standards (Added Ord. 985, September 14, 2015)

a) The portable sign shall be either an A-frame sandwich sign or be a hanging sign supported by a metal frame inserted into a hole the sidewalk provided by the City. (Added Ord. 985, September 14, 2015)

b) The portable sign shall be entirely outside of the area of a right-of-way corner that is between the curb and the lines created by extending the property line to the curb face. See Figure 17.20.140.9-A.1 (Added Ord. 985, September 14, 2015)

c) A portable sign shall be placed either within six inches of the curb line or within 2 feet of the front lot line, in order to minimize interference with pedestrians. In either location, the sign shall not obstruct a continuous through pedestrian zone of at least six feet in width. See Figure 17.20.140.9-A.2. (Added Ord. 985, September 14, 2015)

Figure 17.20.140.9-A.1
Placement of Portable Signs in the R-O-W

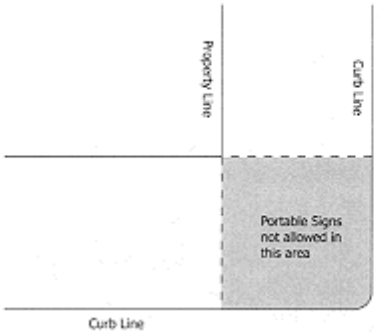
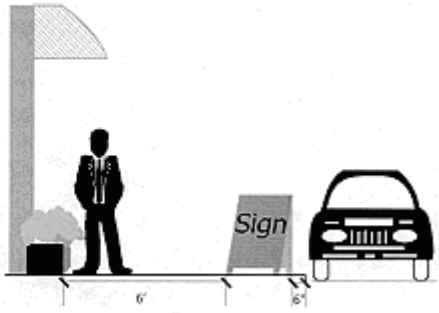


Figure 17.20.140.9-A.2
Placement of Portable Signs in the R-O-W



d) The maximum sign area of an A-frame sandwich sign shall be 6 square feet, counting only one side of the sign. The maximum sign area of a hanging sign shall be 4 square feet. (Added Ord. 985, September 14, 2015)

e) A portable sign may be erected only during the hours a business is open. (Added Ord. 985, September 14, 2015)

6) A portable sign shall not be illuminated. (Added Ord. 985, September 14, 2015)

c. Signs for Temporary Businesses. Temporary businesses may display temporary or portable signs other than trailer-mounted reader boards or any other sign that includes flashing or rotating lights or moving parts. The cumulative size of all such signs may not exceed 32 square feet. No individual sign shall be larger than 16 square feet. All temporary signs must be placed within ten feet of the structure or vehicle used for the temporary business and may not be placed within any public right-of-way. (Added Ord. 985, September 14, 2015)

10. ELECTRONIC MESSAGE SIGNS. Applications for message signs shall be reviewed according to the criteria in this section: (Amended Ord. 898, August 20, 2007) (Amended Ord. 985, September 14, 2015)

a. Proposed sign is located in a Public, Commercial, or Industrial zone. (Amended Ord. 919, March 18, 2010)

b. [Repealed Ord. 985]

c. [Repealed Ord. 985]

d. [Repealed Ord. 985]

e. The following standards shall apply.

1) With the exception of a message sign that displays only the time or temperature, the frequency with which a message or display may be changed shall be no more than once every eight seconds. (Amended Ord. 919, March 18, 2010) (Amended Ord. 985, September 14, 2015)

2) The message or display must change as rapidly as technologically practicable, with no phasing, rolling, scrolling, flashing or blending.

3) The message or display shall be a uniform color on a plain background of a uniform color. (Amended Ord. 919, March 18, 2010) (Amended Ord. 978, January 14, 2015) (Amended Ord. 985, September 14, 2015)

4) The electronic display may comprise no more than 50% of the surface area of a message sign. (Amended Ord. 985, September 14, 2015)

5) No more than one message sign with 2 sides is allowed per lot. (Amended Ord. 985, September 14, 2015)

6) [Repealed Ord. 978]

7) The luminance of the sign shall be limited to no more than 280 candelas per square meter. The applicant shall submit information from the sign manufacturer indicating the luminance will be met as measured with a luminance meter aperture of 1 degree or less, 50 feet directly in front of the sign with the sign in a fully illuminated mode. If the message sign displays white or multi-colored light, the luminance shall be measured in white light. (Added Ord. 919, March 18, 2010) (Amended Ord. 985, September 14, 2015)

8) The sign shall default to the off position in the case of any failure of mechanisms that control luminance or other display features. (Added Ord. 919, March 18, 2010)

f. [Repealed Ord. 985]

g. The proposed sign shall comply with all other regulations including, but not limited to, height and placement restriction. (Amended Ord. 985, September 14, 2015)

h. The provisions of Section 17.20.140.4.n notwithstanding, a message sign dedicated to announcing only community events and public service messages may also display the name or logos of businesses, provided that the business names or logos are not part of the electronic message portion of the sign. (Added Ord. 919, March 18, 2010) (Amended Ord. 985, September 14, 2015)

11. VARIANCES. Any deviation from the standards set forth in these regulations shall be by variance. No variance shall be approved without affirmative findings that the request fully satisfies the following criteria:

a. There are unique circumstances or conditions of the lot, building, or traffic pattern such that the existing sign regulations create an undue hardship.

b. Granting of the variance compensates for those circumstances in a manner equitable with other property owners and is not a special privilege to any business. Any variance granted shall be the minimum necessary to compensate for those conditions and achieve the purpose of this chapter.

c. Granting of the variance shall not decrease traffic safety nor detrimentally affect any other identified public welfare considerations.

d. Granting a variance shall not result in a special advertising advantage in relation to neighboring businesses or businesses of a similar nature. Desire to match standard sign sizes (e.g., chain store signs) shall not be considered as a reason for a variance.

e. The need for a variance shall not be the result of condition created by the applicant or a previous owner.

f. The variance must be consistent with the purposes of this section.

12. [Repealed, Ord. 898]

17.20.150 TREE PRESERVATION

1. NEW DEVELOPMENT AND REDEVELOPMENT. Except for tree farms, development sites are vigorously encouraged to preserve existing trees. Site plans for new development**,** grade and fill plans shall disclose the details of tree removal including numbers of trees**,** size and species of trees to be removed.
2. STREET TREES. Unless specifically authorized in writing by the Public Works Director, or designee, no person shall intentionally damage, cut (save pruning), carve, transplant, or remove any street tree; attach any rope or wire (unless required in order to stabilize the tree), nails, advertising posters, or other contrivance; allow any substance which is harmful to such trees to come in contact with them; or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any tree. Private property owners are responsible for the maintenance and replacement of street trees within adjacent public right**s**-of-way.
3. HERITAGE TREES. Unless specifically authorized in writing by the Public Works Director, or designee, no person shall intentionally damage, cut (save pruning), carve, transplant or remove any Heritage tree; attach any rope or wire (unless required in order to stabilize the tree), nails, advertising posters, or other contrivance; allow any substance which is harmful to such trees to come in contact with them; or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any tree. A list of community Heritage trees will be kept and maintained by the City Administrator or designee.

   Recognition of Heritage Trees. Stayton citizens wishing to have trees recognized by the City as Heritage trees shall submit their request in writing to the City Council. The request shall explain why the subject tree is of exceptional value to the community. A majority vote of approval of the City Council will add the tree to the Heritage Tree list. No tree shall be designated a Heritage tree unless the property owner agrees. Property owners may request the removal of the Heritage Tree designation from trees on their property.

17.20.160 WIRELESS COMMUNICATION FACILITIES

1. PURPOSE. The provisions of this section are intended to ensure that wireless communication facilities (WCF) are located, installed maintained, and removed in a manner that:
   a. Minimizes the number of transmission towers throughout the City.
   b. Minimizes the impact to residential areas.
   c. Encourages the collocation of WCF.
   d. Encourages the use of existing buildings, utility and light poles, water towers, and similar structures for locating WCF instead of new towers.
   e. Ensures that all WCF including support towers, antennas, and ancillary facilities are located and designed to minimize the visual impact on the immediate surroundings and throughout the City, and minimize public inconvenience and disruption. Nothing in this section shall apply to amateur radio antennas, or facilities used exclusively for the transmission or reception of television and radio signals.
2. SITING RESTRICTED. No WCF may be constructed, modified, installed or otherwise located within the City except as provided in this section. Depending on the type, height, and location of a WCF, it shall be a permitted use not subject to site plan review, or a permitted use subject to site plan review.
   a. Outright Permitted Use. No land use permit is required for a WCF which pursuant to subjections 3 through 5 of this section, is an outright permitted use not subject to site plan review. Such a WCF shall require a building and/or electrical permit, depending on the type of installation.
   b. Site Plan Review. A WCF which, pursuant to subsection 3 through 5 of this section is a permitted use subject to site plan review, and shall be processed in accordance with the site plan review procedures of Section 17.12.220. The approval criteria and standards contained in this section, as well as the criteria of Section 17.12.220, shall govern the approval or denial and any conditions of approval, of the site plan review. In the event of a conflict in criteria or other requirements, this section shall govern.
3. COLLOCATION OF WCF ANTENNAS ON EXISTING BUILDINGS, UTILITY OR LIGHT POLES, AND WATER TOWERS.
   a. Permitted Use. Such collocation shall be considered an outright permitted use provided that the antennas and ancillary facilities comply with the standards of this section, and the antennas extend no more than 10 feet above and no more than 2 feet horizontally away from the existing structure, and the collocation site is zoned CR, CG, CCMU, DCMU, DRMU, ID, IC, IL, IA or P. (Amended Ord. 902, May 7, 2008) (Amended Ord. 968, May 8, 2014)
   b. Site Plan Review. Such collocation shall be a permitted use subject to a site plan review approval provided that the antennas and ancillary facilities comply with the standards of this section, the antennas extend no more than 20 feet above and no more that 4 feet horizontally away from the existing structure, and the collocation site is zoned HD, CR, CG, CCMU, DCMU, DRMU, ID, IC, IL, IA or P. As part of collocation on a utility or light pole, the existing pole may be replaced if needed for structural soundness provided the total height of the pole and antenna is not increased and the diameter of the pole is not increased by more than 20%. (Amended Ord. 902, May 7, 2008) (Amended Ord. 968, May 8, 2014)

4. COLLOCATION OF ADDITIONAL ANTENNAS ON EXISTING WCF TOWER.

   a. Permitted Use. Collocation of additional antenna(s) on an existing WCF support tower shall be considered an outright permitted use if the existing WCF was specifically approved, as part of a prior land use approval (by the City) of a WCF tower, for collocation of additional antennas.

   b. Site Plan Review. Collocation of additional antennas on an existing WCF tower shall be a permitted use subject to site plan review approval if the existing WCF was not specifically approved as part of prior land use approval of a WCF tower, for collocation of additional antennas.

5. NEW WCF WITH SUPPORT TOWER.

   a. Site Plan Review. Construction of new WCF with support tower shall be a permitted use and require site plan review approval in the IL, IC, IA, and P zoning districts. Location of antennas on an existing structure on which the antennas extend 20 feet or further above or more than 4 feet horizontally away from the existing structure shall be considered a new WCF. (Amended Ord. 968, May 8, 2014)

6. APPLICATION REQUIREMENTS.

   a. Collocation of WCF Antennas. In addition to application materials required elsewhere in this Code, an applicant shall submit the following information:

      1) A description, site plan, and elevation drawing of the proposed antennas and any ancillary structures location, design, and height. The description must include a response to how the proposed facility meets applicable Code standards and requirements.

      2) A statement documenting that placement of the antennas is designed to allow future collocation of additional antennas if technologically possible.

      3) Plans showing the connection to utilities/ right-of-way cuts, and ownership of utilities and easements. (Amended Ord. 968, May 8, 2014)

      4) Documents demonstrating that necessary easements and leases have been obtained.

      5) Plans showing how vehicle access and parking will be provided.

      6) If ancillary facilities will be located on the ground, a landscape plan and fencing plan, showing how these facilities will be buffered from adjacent property.

   b. Construction of New WCF Tower. In addition to application materials required elsewhere in this Code, an applicant shall submit the following information:

      1) A description, site plan, and elevation drawing of the proposed WCF and tower location, design, and height. The description must include a response to how the proposed facility meets applicable Code standards and requirements.

      2) The general capacity of the WCF tower in terms of the number and type of antennas it is designed to accommodate.

      3) A signed agreement stating that the applicant and any future owners of the WCF will allow collocation with other users, provided all safety, structural, and technological requirements are met.

      4) Plans showing the connection to utilities/ right-of-way cuts, and ownership of utilities and easements are required.

5) Documents demonstrating that necessary easements and leases have been obtained.

6) Plans showing how vehicle access and parking will be provided.

7) If ancillary facilities are located on the ground, a landscape and fencing plan shall be required showing how these facilities will be buffered from adjacent property.

8) A visual study showing a graphic or computer simulation of the proposed WCF tower, antennas and ancillary facilities from at least 5 points (representing a wide variety of views) within a 2 mile radius. Such points shall be chosen by the applicant with review and approval by the City Planner.

9) Evidence demonstrating collocation is impractical on existing buildings, utility and light poles, water towers, existing WCF towers, and existing WCF sites for reasons of structural support capabilities, safety, available space, receiving or transmitting interference, or failing to meet service coverage area needs.

10) A statement providing the reasons for the location, design, and height of the proposed WCF tower and antennas.

7. STANDARDS FOR WCF SITES. Installation, construction, or modification of all WCF towers, antennas, and ancillary facilities shall comply with the following standards:

a. Separation between WCF towers. No WCF tower may be constructed within 2,000 feet of any pre-existing WCF tower and no closer than 3,500 feet from Wilderness, Pioneer, and Stayton Riverfront Parks. Tower separation shall be measured by following a straight line from the portion of the base of the proposed tower which is closest to the base of any pre-existing tower.

b. Height Limitation. Within the IL, IA, IC and P zoning districts, the maximum tower height shall be 140 feet, as measured from the ground elevation to the highest point of the tower or antennas.

c. Collocation. WCF towers shall be designed to accommodate collocation of additional providers antennas:

1) WCF towers at 75 feet or less in height shall be designed to accommodate collocation of at least one additional antenna either outright or through future modification.

2) WCF towers over 75 feet in height shall be designed to accommodate collation of at least two additional antennas either outright or through future modification.

d. Setback. In addition to required setbacks in each zoning district, the following setbacks from adjacent property lines and streets shall be required:

1) WCF towers in the IL, IC, IA, and P zoning districts shall setback from all dwellings by a distance equal to one foot greater than the total height of the tower and antennae, and by a distance of 300 feet from any residential zone boundary. (Amended Ord. 968, May 8, 2014)

2) Should the use of "Concealment Technology" be implemented, the decision makers may allow the proposed towers setback to be reduced by 100 feet.

e. Buffering. In the IL, IC, IA and P zoning districts, a sight obscuring fence of a minimum height equal to the height of any ground-based ancillary shelters is required around the perimeter of the tower and ancillary structures. Landscaping is required in accordance with Section 17.20.090, and the decision authority may impose a condition on the size of ground-based ancillary facilities to limit the visual impact of such facilities.

When a tower is proposed within 1,320 feet of a residential zoning district or when the visual impact study required in Section 17.20.160.6.b.8 demonstrates that the proposed tower will be highly visible from a large geographic area of residences, the tower shall be designed so as to be camouflaged to the greatest extent possible by the use of concealment technology.

f. Lighting. No lighting shall be permitted on the tower, antennas, or ancillary structures except as required by the Federal Aviation Administration or the Oregon State Aeronautics Division.

g. Color. The tower, antennas, ancillary structures and fencing shall be surfaced with nonreflective paint and/or materials. The surfaces must be neutral colors or shades as approved by the City.

h. Signs. No signs, striping, graphics or other attention-getting devices are permitted on the tower, ancillary structures, or fencing, except for warning and safety signage with a surface of no more than 4 square feet. Such signage shall be attached to the fence or gate (or structure if no ground-based ancillary structures) and is limited to a maximum of 2 signs.

i. Removal of Facilities. All tower, antenna, and ancillary structures shall be removed by the facility owner or property owner within 12 months of the date the facility ceases to be operational. The facility owner shall inform the property owner, in writing, of this condition with a copy submitted to the Planning Department prior to issuance of a building permit.

j. Cooperation. A WCF permittee shall cooperate with other wireless communication providers in collocating additional antennae on towers and support structures. A permittee shall exercise good faith in collocating and sharing the permitted site with other providers, provided the shared use does not result in substantial technical impairment of the permitted use. Good faith shall include sharing technical information sufficient to evaluate the feasibility of collocation.

k. Maintenance. It is required that a monopole tower maintain original appearance with additional collocation cables and wires to be added internally, and the towers exterior paint be maintained.

l. Variance. Any deviations from the standards set forth in these regulations shall be by Variance. No variance shall be approved without affirmative findings that the request fully satisfies the criteria as outlined in Section 17.12.190.

8. FEES. Notwithstanding other fees or deposits for permits required elsewhere in the Code or by resolution, the City Administrator may require that applicants for WCFs (whether for permitted use or site plan review), submit an amount sufficient to recover all of the City's costs in retaining wireless communications consultants to verify statements in the application materials.

17.20.170 OUTDOOR LIGHTING

1. PURPOSE. The purposes of these lighting standards are: conserving energy, minimizing light pollution and glare on adjacent properties, protecting residential uses from neighboring commercial or industrial uses, and promoting traffic and pedestrian safety.
2. GENERAL STANDARDS. Lighting may be provided which serves security, safety and operational needs but which does not directly or indirectly produce deleterious effects on abutting properties or which would impair the vision of the traveling public on adjacent roadways. Lighting fixtures with more than 800 lumens of light output shall be cut-off fixtures so that the lighting elements are not exposed to normal view by motorists, pedestrians, or from adjacent dwellings. Direct or indirect illumination shall not exceed 0.5 foot candles upon abutting lots in residential use measured at the property line.

   Whenever practicable, lighting installations shall include timers, dimmers, and/or sensors to reduce overall energy consumption and eliminate unneeded lighting. When an outdoor lighting installation is being modified, extended, expanded, or added to, the entire lighting installation shall be subject to the requirements of this Section.

   a. Electrical service to outdoor lighting fixtures shall be underground unless the fixtures are mounted directly on utility poles.

   b. For the purposes of this Section, the mounting height of a lighting fixture shall be defined as the vertical distance from the grade elevation of the surface being illuminated to the bottom of the lighting fixture.

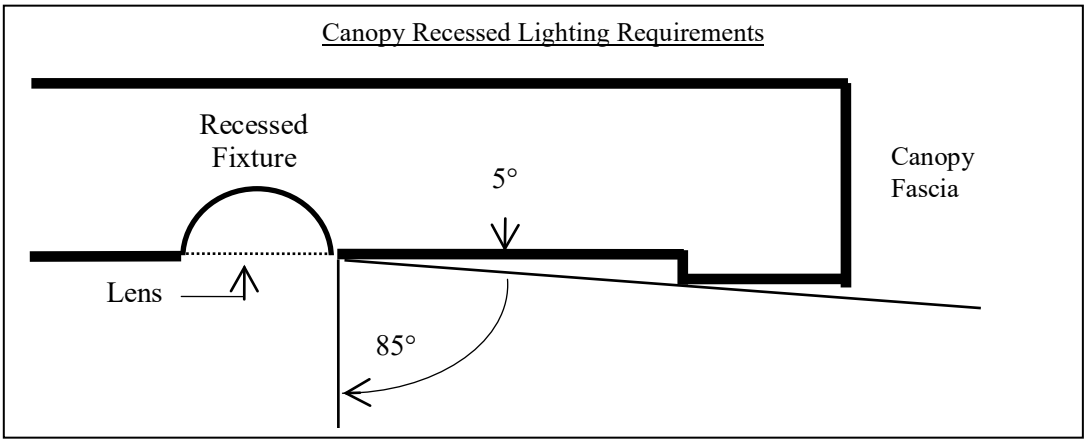
   c. Holiday lighting during the months of November, December, and January shall be exempt from the provisions of this section, provided that such lighting does not create dangerous glare on adjacent streets or properties.
3. PROCESS. When an application for land use approval contains outdoor lighting installation or replacement, the decision authority shall review and approve the lighting installation as part of the application. Lighting installation or replacement that is not part of a land use approval application need not submit a lighting plan or obtain a permit beyond that which may be required by the Electrical Code, but shall meet the standards below.
4. NON-RESIDENTIAL LIGHTING STANDARDS. The following additional standards shall apply to all commercial, industrial, public and semi-public uses:

   a. Lighting of Gasoline Station/Convenience Store Aprons and Canopies. Lighting levels on gasoline station/convenience store aprons and under canopies shall be adequate to facilitate the activities taking place in such locations. Lighting of such areas shall not be used to attract attention to the businesses. Signs allowed under Section 17.20.140 shall be used for that purpose.

      1) Areas on the apron away from the gasoline pump islands used for parking or vehicle storage shall be illuminated in accordance with the requirements for parking areas set forth elsewhere in this section. If no gasoline pumps are provided, the entire apron shall be treated as a parking area.

      2) Areas around the pump islands and under canopies shall be illuminated so that the minimum horizontal illuminance at grade level is at least 1.0 foot-candle and no more than 5.5 foot-candles. The uniformity ratio shall be no greater than 4:1, and the maximum average illumination level shall be 22.0 foot-candles.

3) Light fixtures mounted on canopies shall be recessed so that the lens cover is recessed or flush with the bottom surface (ceiling) of the canopy or shielded by the fixture or the edge of the canopy so that light is restrained to no more than 85° from vertical, as shown in the figure below.



4) As an alternative to recessed ceiling lights, indirect lighting may be used where light is beamed upward and reflected down from the underside of the canopy. In this case light fixtures must be shielded so that direct illumination is focused exclusively on the underside of the canopy.

5) Lights shall not be mounted on the top or sides (fascias) of the canopy and the sides (fascias) of the canopy shall not be illuminated.

b. Lighting of Exterior Display/Sales Areas. Lighting levels on exterior display/sales areas shall be adequate to facilitate the activities taking place in such locations. Lighting of such areas shall not be used to attract attention to the businesses. Signs allowed under Section 17.20.140 shall be used for that purpose. The site plan shall designate areas to be considered display/sales areas and areas to be used a parking or passive vehicle storage areas. This designation must be approved by the decision authority.

1) Areas designated as parking or passive vehicle storage areas shall be illuminated in accordance with the requirements for parking areas in Section 17.20. 170.4.c.

2) Areas designated as exterior display/sales areas shall be illuminated so that the average horizontal illuminance at grade level is no more than 5.0 foot-candles. The uniformity ratio shall be no greater than 4:1. The average and minimum shall be computed for only that area designated as exterior display/sales area.

3) Light fixtures shall be full cut-off fixtures, and shall be located, mounted, aimed, and shielded so that direct light is not cast onto adjacent streets or properties.

4) Fixtures shall be mounted no more than 20 feet above grade and mounting poles shall be located either inside the illuminated area or no more than 10 feet away from the outside edge of the illuminated area.

5) Except for lighting meeting the standards of Section 17.20.060.4.c, exterior display/sales areas shall be illuminated only when the establishment is open for business.

c. Lighting of Parking Areas. Parking area lighting shall provide the minimum lighting necessary to ensure adequate vision and comfort in parking areas, and to not cause glare or direct illumination onto adjacent properties or streets. (Amended Ord. 913, September 2, 2009)

1) All lighting fixtures serving parking areas shall be full cut-off fixtures. (Amended Ord. 913, September 2, 2009)

2) As an alternative in the Downtown Districts, the design for an area may suggest the use of parking area lighting fixtures of a particular "period" or architectural style, as either alternatives or supplements to the lighting described above. (Amended Ord. 913, September 2, 2009)

   a) If such fixtures are not cut-off fixtures, the maximum initial lumens generated by each fixture shall not exceed 2,000 (equivalent to a 150-watt incandescent bulb).

   b) Mounting heights of such alternative fixtures shall not exceed 15 feet.

3) Parking area lighting shall meet the following mounting height, minimum illumination level, and uniformity ratios.

Table 17.20.170.4.c.3 Parking area lighting standards

Feature	Commercial Zones	Downtown Zones	Industrial Zones
Maximum Mounting Height	20 feet	14 feet	25 feet
Minimum Illumination Level	0.3 foot-candle	0.3 foot-candle	0.5 foot-candle
Maximum Average Illumination Level	1.6 foot-candle	2.0 foot-candle	2.6 foot-candle
Uniformity Ratio	4:1	4:1	4:1
Minimum Color Rendering Index	65	65	20

(Amended Ord. 902, May 7, 2008) (Amended Ord. 908, May 20, 2009)

d. Security Lighting. The purpose of and need for security lighting (i.e. lighting for safety of persons and property) must be demonstrated as part of an overall security plan which includes at least illumination, surveillance, and response, and which delineates the area to be illuminated for security purposes. To the extent that the designated areas is illuminated for other purposes (parking or display), independent security lighting is discouraged.

   1) In addition to the application materials required as part of the lighting plan, applications for security lighting installations shall include a written description of the need for a purposes of the security lighting, a site plan showing the area to be secured and the location of all security lighting fixtures, specifications of all fixtures, the horizontal and vertical angles in which light will be directed, and adequate cross-sections showing how light will be directed only onto the area to be secured.

   2) All security lighting fixtures shall be shielded and aimed so that illumination is directed only to the designated area and not cast on other areas. In no case shall lighting be directed above a horizontal plane through the top of the lighting fixture, and the fixture shall include shields that prevent the light source or lens from being visible from adjacent properties and roadways. The use of general floodlighting fixtures is discouraged unless the above standards can be met.

   3) Security lighting may illuminate vertical surfaces (e.g. building facades and walls) up to a level 8 feet above grade or 8 feet above the bottoms of doorways or entries, whichever is greater.

   4) Security lighting fixtures may be mounted on poles located no more than 10 feet from the perimeter of the designated secure area.

5) Security lights intended to illuminate a perimeter (such as a fence line) shall include motion sensors and be designed to be off unless triggered by an intruder located with 5 feet of the perimeter.

6) Security lighting shall meet the standards of the table below:

Table 17.20.170.4.d.6 Security area lighting standards

Feature	Commercial Zones	Downtown Zones	Industrial Zones
Maximum Mounting Height	20 feet	14 feet	25 feet
Maximum Average Horizontal Illumination Level on Ground	1.0 foot-candle	1.0 foot-candle	1.5 foot-candle
Maximum Average Illumination Level on Vertical Surface	1.0 foot-candle	1.0 foot-candle	1.5 foot-candle
Minimum Color Rendering Index	65	65	20

(Amended Ord. 902, May 7, 2008) (Amended Ord. 909, May 20, 2009)

5. MULTI-FAMILY RESIDENTIAL LIGHTING STANDARDS. The following additional standards shall apply to all multi-family developments:

a. Lighting of Parking Areas. Parking lot lighting shall provide the minimum lighting necessary to ensure adequate vision and comfort in parking areas, and to not cause glare or direct illumination onto adjacent properties or streets.

1) All lighting fixtures serving parking lots shall be full cut-off fixtures.

2) Parking area lighting shall have a maximum mounting height of 15 feet, a minimum illumination level of 0.3 foot-candles, a maximum illumination level of 1.4 foot candles, a uniformity ratio of 4:1, and a minimum color rendering index of 65.

b. Lighting of Pedestrian Walkways. Pedestrian walkways in a multi-family development shall meet the following standards.

1) All lighting fixtures shall be full cut-off fixtures.

2) If pedestrian walkways are adjacent to illuminated parking areas, public rights-of-way or common open space this standard shall be met without the need for additional lighting if the ambient lighting meets the illumination levels, uniformity ratio and minimum color rendering index specified in subsection 5.b.3

3) Pedestrian walkways between parking areas and buildings or adjacent to dwellings and off-street multi-purpose pathways shall use bollard lights with a minimum illumination level of 0.3 foot-candles, a maximum illumination level of 1.2 foot-candles, a uniformity ratio of 4:1, and a minimum color rendering index of 65.

4) The decision authority, in consultation with the Parks and Recreation Commission and the Public Works Director, may require off-street walk and bike trails built within or adjacent to a multifamily development in accordance with the Parks and Recreation Master Plan to be illuminated in accordance with the standards of Section 17.20.1705.b.3) above.

5) Rustic trails built within or adjacent to a multifamily development in accordance with the Parks and Recreation Master Plan shall not be illuminated.

6. PUBLIC LIGHTING STANDARDS. The following additional standards shall apply to all public and semi-public uses.

   a. Lighting of Parks and Open Space.

      1) All lighting fixtures shall be full cut-off fixtures.

      2) Where illumination is provided, lighting of parks or open space shall have a maximum mounting height of 20 feet, minimum illumination level of 0.3 foot-candles, maximum illumination level of 1.6 foot-candles, uniformity ratio of 4:1, and color rendering index of 65.

      3) The decision authority, in consultation with the Parks and Recreation Commission and the Public Works Director, shall determine whether off-street walk and bike trails built in accordance with the Parks and Recreation Master Plan, are required to be illuminated in accordance with the standards of Section 17.20.1705.b.3) above.

      4) Rustic trails built in accordance with the Parks and Recreation Master Plan shall not be illuminated.

17.20.180 WETLAND PROTECTION AREAS

1. PURPOSE. The purposes of establishing wetland protection areas are:
   a. To implement the goals and policies of the City of Stayton Comprehensive Plan.
   b. To satisfy the requirements of Statewide Planning Goal 5.
   c. To protect Stayton's wetland areas, thereby protecting the hydrologic and ecologic functions these areas provide for the community.
   d. To protect fish and wildlife habitat.
   e. To protect water quality and natural hydrology, to control erosion and sedimentation, and to reduce the adverse effects of flooding.
   f. To protect the amenity values and educational opportunities of Stayton's wetlands as community assets.
   g. To improve and promote coordination among local, state, and federal agencies regarding development activities near wetlands.
2. DETERMINATION OF LOCALLY SIGNIFICANT WETLANDS. Through the process of adopting the local wetlands inventory and adoption of this Section, the City of Stayton has determined which wetlands are locally significant in accordance with rules adopted by Department of State Lands (DSL). Locally significant wetlands are identified on the City of Stayton Local Wetlands Inventory (LWI) map.
3. WETLAND PROTECTION AREAS, APPLICABILITY, AND APPLICATION SUBMITTAL REQUIREMENTS.
   a. Wetland protection areas consist of locally significant wetlands.
   b. Unless otherwise stated, the City of Stayton shall apply the provisions of Sections 1 through 9 in conjunction and concurrently with the requirements of any other development permit being sought by an applicant. If no other permit is being sought the City Planner shall serve as the approving authority.
   c. Applications for plan approvals, development permits, building permits, or plans for proposed public facilities on parcels containing a wetland protection area or a portion thereof, shall include the following:
      1) A delineation of the wetland boundary completed by a professional wetland scientist, or similar expert, qualified to delineate wetlands in accordance with Oregon Department of State Lands rules. If the proposed project is designed to avoid and development activity within 75 feet of wetlands, a wetland determination report may be provided in place of the delineation.
      2) A scale drawing that clearly depicts the wetland boundary, the surface water source, existing trees and vegetation, property boundaries, and proposed site alterations including proposed excavation, fill, structures, and paved areas.
      3) Verification that the application packet has been submitted to the Oregon Department of Fish and Wildlife for review and comment.
4. APPROVAL CRITERIA. The approving authority shall base its decision on the following criteria in addition to the required criteria for any other permit or approval that is being sought. Approvals shall be based on compliance with all of the following criteria:

a. The proposed project complies with the provisions of Sections 5 through 8 of this Section.

b. Except as otherwise allowed in Section 5, the proposed project will not result in excavation or filling of a wetland or reduction of wetland area on a parcel that has been identified as containing a wetland.

c. Except as otherwise allowed in Section 5, the proposed project will not result in development or filling of land within 75 feet of the boundary of wetland that has been identified only on the LWI map or by a determination, but not an approved delineation.

5. ALLOWED ACTIVITIES WITHIN WETLAND PROTECTION AREAS.

a. Any use, sign, or structure, and the maintenance thereof, that was lawfully existing on the date of adoption of this ordinance [February 1, 2007], is allowed to continue within a wetland protection area. Such use, sign, or structure may continue at a similar level and manner as existed on the date of adoption of this ordinance. The maintenance and alteration of pre-existing ornamental landscaping is permitted within a wetland protection area so long as no additional native vegetation is disturbed. The provisions of this section shall not be affected by any change in ownership of properties containing a wetland protection area.

b. The following activities and maintenance thereof are allowed within a wetland protection area, provided that any applicable state or federal permits are secured:

1) Wetland restoration and rehabilitation activities.

2) Restoration and enhancement of native vegetation.

3) Cutting and removal of trees that pose a hazard to life or property due to threat of falling.

4) Removal of non-native vegetation, if replaced with native plant species at similar coverage or density, so that natives are dominant.

5) Normal farm practices such as grazing, plowing, planting, cultivating and harvesting, that meet the following criteria and limitations:

a) The farm practices were in existence or occurring on the property on the date of adoption of the provisions herein,

b) The farm practices are of no greater scope or intensity than the operations that were in existence on the date of adoption of the provisions herein, and

c) Normal farm practices do not include new or expanded structures, roads, or other facilities involving placement of fill material, excavation, or new drainage measures

6) Maintenance of existing drainage ways, ditches, or other structures, to maintain flow at original design capacity and mitigate upstream flooding, provided that management practices avoid sedimentation and impact to native vegetation, and any spoils are placed in uplands.

7) Replacement of a permanent, legal, nonconforming structure in existence on the date of adoption of this ordinance with a structure on the same building footprint, if it does not disturb additional area, and in accordance with the provisions of Section 17.16.050.4.

8) Expansion of a permanent, legal, nonconforming structure in existence on the date of adoption of this ordinance, if the expansion area is not within and does not disturb the wetland protection area, and in accordance with the provisions of Section 17.16.050.4.

9) Emergency stream bank stabilization to remedy immediate threats to life or property.

10) Maintenance and repair of existing roads and streets, including repaving and repair of existing bridges, and culverts, provided that such practices avoid sedimentation and other discharges into the wetland or waterway.

c. New fencing may be permitted by the City Planner where the applicant demonstrates that the following criteria are satisfied:

1) The fencing does not affect the hydrology of the site.

2) The fencing does not present an obstruction that would increase flood velocity or intensity.

3) Fish habitat is not adversely affected by the fencing.

4) The fencing is the minimum necessary to achieve the applicant's purpose.

Applications for new fencing within a wetland protection area shall contain a scale drawing that clearly depicts the wetland area boundary.

6. PROHIBITED ACTIVITIES WITHIN WETLAND PROTECTION AREAS. Except as allowed in Section 5, the following activities are prohibited within a wetland protection area.

a. Placement of new structures or impervious surfaces.

b. Excavation, drainage, grading, fill, or removal of vegetation except for fire protection purposes or removing hazard trees.

c. Expansion of areas of landscaping with non-native species, such as a lawn or garden, into the wetland protection area.

d. Disposal or temporary storage of refuse, yard debris, or other material.

e. Discharge or direct runoff of untreated stormwater.

f. Uses not allowed in the list of permitted uses for the underlying zone.

g. Any use not specifically allowed in Section 5.

7. CONSERVATION AND MAINTENANCE OF WETLAND PROTECTION AREAS. When approving applications for land divisions, Master Planned Developments, conditional use permits, and site plan review, or for development permits for properties containing a wetland protection area or portion thereof, the approving authority shall assure long term conservation and maintenance of the wetland protection area through one or more of the following methods:

a. The area shall be protected in perpetuity by a conservation easement recorded on deeds and plats prescribing the conditions and restrictions set forth in Sections 1 through 9, and any imposed by state or federal permits.

b. The area shall be protected in perpetuity through ownership and maintenance by a private nonprofit association through a conservation easement or through conditions, covenants, or restrictions (CC&Rs), prescribing the conditions and restrictions set forth in Sections 1 through 9 and any imposed by state or federal permits.

c. The area shall be transferred by deed to a willing public agency or private conservation organization with a recorded conservation easement prescribing the conditions and restrictions set forth in Sections 1 through 9 and any imposed by state or federal permits.

[Note: Other mechanisms for long-term protection and maintenance as deemed appropriate and acceptable by the City of Stayton attorney, that are clear and objective standards, could

be added to this list. Such mechanisms shall be consistent with the purposes and requirements of this ordinance.]

8. NOTIFICATION AND COORDINATION WITH STATE AGENCIES.

   a. The City of Stayton shall notify the Oregon Department of State Lands in writing of all applications to the City of Stayton for development activities including development applications, building permits, and other development proposals that may affect any wetland identified in the Local Wetlands Inventory. This applies for both significant and non-significant wetlands.

   b. When reviewing wetland development permits authorized under this Section, the approving authority shall consider recommendations from the Oregon Department of Fish and Wildlife regarding OAR 635-415-0000 *et seq*. (Amended Ord. 920, May 3, 2010)

9. VARIANCES.

   a. The Planning Commission shall be the approving authority for applications for variances to the Wetland Protection Area provisions. The procedures of Section 17.12.190 shall be followed for approval of a variance except that the variance criteria of this section shall apply.

   b. Mapping Error Variances and Corrections. The City Planner may correct the location of the wetland protection overlay zone when the applicant has shown that a mapping error has occurred and the error has been verified by the DSL. Delineations verified by DSL shall be used to automatically update and replace LWI mapping. No formal variance application or plan amendment is needed for map corrections where approved delineations are provided.

   c. Hardship Variances. The Planning Commission may grant a variance to the provisions of this ordinance only when the applicant has shown that all of the following conditions exist:

      1) Through application of this ordinance, the property has been rendered not buildable.

      2) The applicant has exhausted all other options available under this chapter to relieve the hardship.

      3) The variance is the minimum necessary to afford relief.

      4) No significant adverse impacts on water quality, erosion, or slope stability will result from approval of this hardship variance, or these impacts have been mitigated to the greatest extent possible.

      5) Loss of vegetative cover shall be minimized.

17.20.190 MULTI-FAMILY RESIDENTIAL DESIGN STANDARDS

1. These standards shall apply to any new attached residential structure. (Amended Ord. 902, May 7, 2008; Ord. 1037, November 6, 2019)

2. SITE DESIGN.

   a. Maximum Lot Coverage. Lot coverage shall not exceed the percentages shown in Table 17.20.190.2.a:

Table 17.20.190.2.a Maximum Lot Coverage for Multi-family Uses

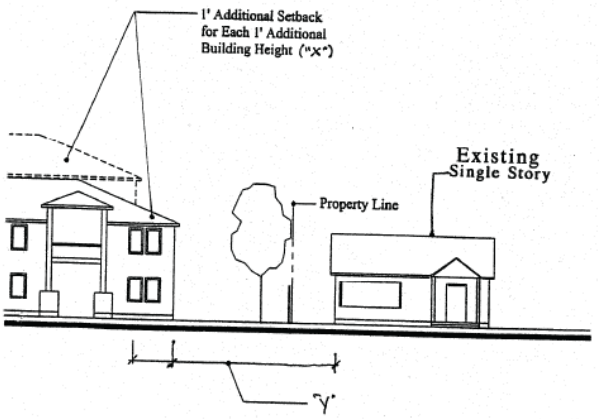
Multi-Family Use	Maximum Coverage
Single Family Attached, Duplex or Triplex	50%
Multi-family dwellings	60%

(Amended Ord. 902, May 7, 2008)

   Lot coverage is calculated as the percentage of a lot or parcel covered by buildings or structures (as defined by the foundation plan area) and other structures with surfaces greater than 36 inches above the finished grade. It does not include paved surface-level development such as driveways, parking pads, and patios.

   b. Height Step Down. To provide compatible scale and relationships between new multi-story attached residential structures and adjacent single-family dwellings, the multi-story building(s) shall "step down" to create a building height transition to adjacent single-family building(s). (Amended Ord. 902, May 7, 2008)

Example of Height Transition (For illustrative purposes only.)



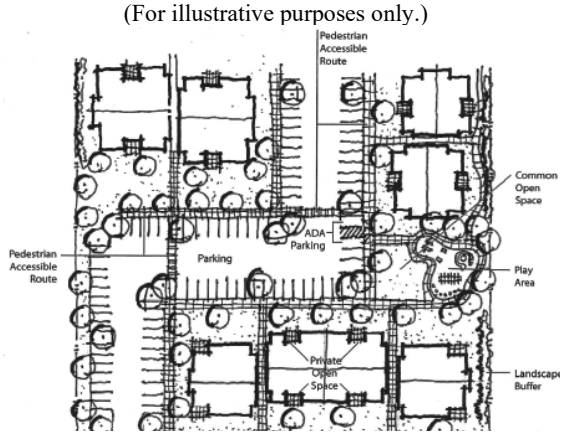
   The transition standard is met when the height of any portion of the taller structure does not exceed 1 foot of height for every foot of separation between the adjacent single-family building and that portion of the taller structure. (Amended Ord. 902, May 7, 2008)

   c. Building Orientation Standards. All new attached residential structures shall have buildings that are oriented to the street. The following standards will apply: (Amended Ord. 902, May 7, 2008)

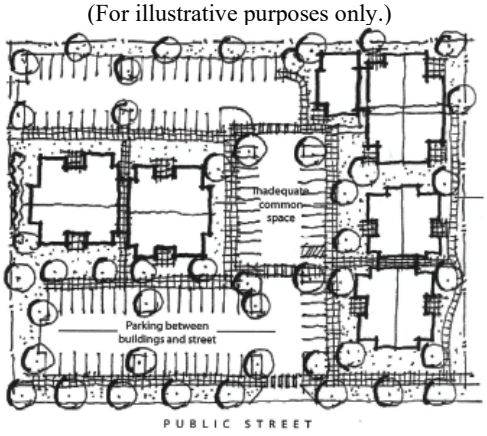
      1) All buildings shall comply with the setback standards of the zoning district where the development is located.

2) Except as provided in subsections 3 and 4, below, all attached residential structures shall have at least 1 primary building entrance (i.e. dwelling entrance, a tenant space entrance, a lobby entrance, or breezeway/courtyard entrance serving a cluster of units) facing an adjoining street, or if on a side elevation, not more than 20 feet from a front lot line. (Amended Ord. 902, May 7, 2008)

Example of Acceptable Building Orientation
(For illustrative purposes only.)



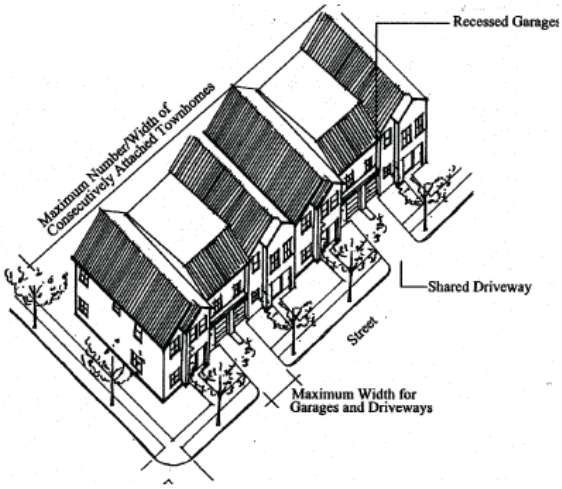
Example of Unacceptable Building Orientation
(For illustrative purposes only.)



3) Any duplex located on a corner lot shall be oriented so that the architectural front of each unit faces a separate street.

4) (Repealed Ord. 913, September 2, 2009)

5) Off street parking, driveways, and other vehicle areas shall not be placed between buildings and the street(s) to which they are oriented, except that townhouses with



Example of Townhomes with Shared Driveways
(For illustrative purposes only.)

garages that face a street may have 1 driveway access located between the street and primary building entrance for every 2 dwelling units following vehicle areas when the decision authority finds they will not adversely affect pedestrian safety and convenience.

6) Parking and maneuvering areas, driveways, active recreation areas, loading areas, and dumpsters shall not be located between attached residential structures and adjacent single family homes. (Amended Ord. 902, May 7, 2008)

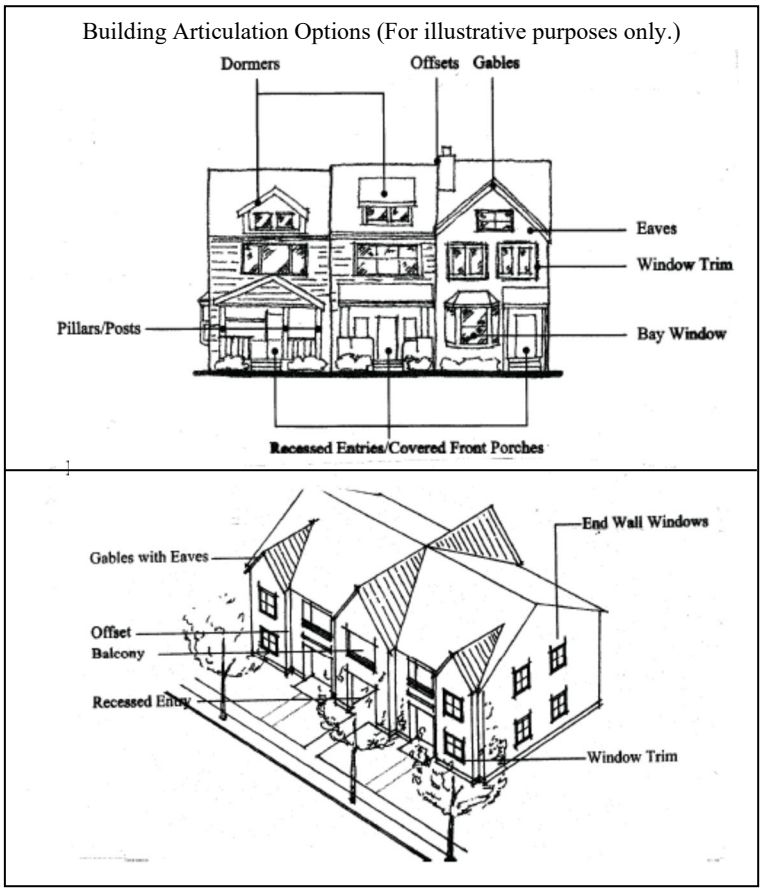
7) When there is insufficient street frontage for building orientation in a development with multiple buildings to face the street, a primary entrance may be oriented to a common green, plaza or courtyard. When oriented this way, the primary entrance(s) and common green, plaza or courtyard shall be connected to the street by a pedestrian walkway meeting the standards of Section 17.26.020.5.

8) Outdoor Service Areas. Trash receptacles shall be oriented away from building entrances and set back at least 10 feet from any public right-of-way and adjacent residences. Outdoor service areas shall be screened with an evergreen hedge or solid fence of materials similar to the primary building of not less than 6 feet in height. If the outdoor service area includes trash receptacles, the receptacle must be accessible to trash pick-up trucks. (Amended Ord. 913, September 2, 2009)

3. ARCHITECTURAL STANDARDS.

a. Building Length. The continuous horizontal distance as measured from end wall to end wall of individual buildings shall not exceed 100 feet.

b. Articulation. All attached residential structures shall incorporate design features to break up large expanses of uninterrupted walls or roof planes. Along the vertical face of all building stories, such elements shall occur at a minimum interval of 30 feet and each floor shall contain at least 2 of the following elements. (Amended Ord. 902, May 7, 2008)



1) Recess (e.g. deck, patio, courtyard, entrance or similar feature) that has a minimum depth of 4 feet.

2) Extension (e.g. deck, patio, entrance, overhang, or similar feature) that projects a minimum of 2 feet and runs horizontally for a minimum length of 4 feet.

3) Dormers with peaked roofs and windows or offsets or breaks in roof elevation of 2 feet or greater in height. (Amended Ord. 913, September 2, 2009)

c. Street-side facades. All building elevations visible from a street right-of-way shall provide prominent defined entrances and a combination of architectural features as specified in Section 17.20.190.3.e below. (Amended Ord. 913, September 2, 2009)

d. Exterior Stairways. Stairways shall be incorporated into the building design. External stairways, when necessary, shall be recessed into the building, sided using the same siding

materials as the building, or otherwise incorporated into the building architecture. Access balconies and/or outdoor corridors longer than 16 feet shall not be used. No more than 4 units shall access from a single balcony. (Amended Ord. 913, September 2, 2009; Ord. 1037, November 6, 2019)

e. Design Features. The minimum number of required design features for an attached residential structure is determined by the number of dwelling units in each building as shown in Table 17.20.190.3.e. (Amended Ord. 902, May 7, 2008)

Table 17.20.190.3.e Minimum Number of Design Features

Number of Units	Minimum Number of Features
2 - 6	5
7 - 20	8
21 or more	10

The following design features may be used to meet the requirements of this subsection. Features not included on the list may be used if approved by decision authority.

1) Dormers
2) Gables
3) Entries recessed a minimum of 30 inches (Amended Ord. 1037, November 6, 2019)
4) Covered porch entries or porticos
5) Cupolas or towers
6) Pillars or posts
7) Eaves; a minimum 18 inches of projection
8) Off-sets in building face or roof; a minimum 16 inches
9) Window trim; minimum of 3 inches wide
10) Bay windows
11) Balconies
12) Decorative patterns on exterior finish such as: shingles, wainscoting, ornamentation or similar features.
13) Decorative cornice or pediments (for flat roofs)

f. Building Materials. Plain concrete, corrugated metal, plywood, sheet press board, or textured plywood siding with vertical grooves shall not be used as exterior finish material. (Amended Ord. 1037, November 6, 2019)

4. OPEN SPACE.

a. Common Open Space. Of the landscaping required by Section 17.20.090, a minimum of 10% of the site area shall be designated and permanently reserved as common open space in all multi-family developments with more than 10 units, in accordance with the following criteria:

1) The site area is defined as the lot or parcel on which the development is to be located, after subtracting any required dedication of street right-of-way.

2) Streets, driveways, and parking areas, including areas required to satisfy parking area landscape standards, shall not be applied towards the minimum useable open space requirement. (Amended Ord. 913, September 2, 2009)

3) In meeting the common open space standard, the multi-family development shall contain one or more of the following: outdoor recreation area, protection of sensitive lands, play fields, outdoor playgrounds, outdoor sports courts, swimming pools, walking paths, or similar open space amenities for residents.

4) The common open space shall have a minimum average width of 15 feet and a minimum average length of 15 feet.

b. Private Open Space. Private open space areas shall be required for dwelling units based on all of the following criteria:

1) All ground-floor housing units shall have front or rear patios or decks measuring at least 40 square feet. (Amended Ord. 913, September 2, 2009)

2) All upper-floor housing units shall have balconies or porches measuring at least 30 square feet. (Amended Ord. 913, September 2, 2009)

5. LIGHTING. All attached residential structures shall meet the standards of Section 17.20.170. (Amended Ord. 902, May 7, 2008)

17.20.200 COMMERCIAL DESIGN STANDARDS

1. PURPOSE. The purpose of the commercial standards to ensure that the public health, safety and general welfare are protected and the general interest of the public is served. The standards provide for originality, flexibility, and innovation in site planning and development including architecture, landscaping, parking design and enhancement of the special characteristics that make Stayton a unique place to live. The standards of this section apply to all types of non-residential development and to any building with a mix of non-residential and residential uses, except in the Downtown zones, where the standards of Section 17.20.220 apply. (Ord. 898, August 20, 2007) (Amended Ord. 902, May 7, 2008)

2. SIZE RESTRICTIONS.

   a. All retail stores are limited to 45,000 square feet of gross floor area. (Amended Ord. 949, April 17, 2013)

   b. Malls are limited to 100,000 square feet of gross floor area with no retail store exceeding 30,000 square feet. (Amended Ord. 949, April 17, 2013)

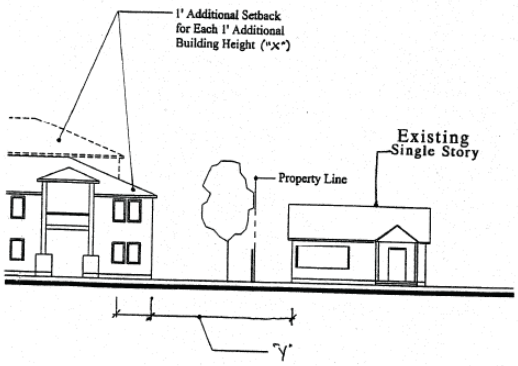
   c. A mall that is larger than 30,000 square feet gross floor area shall not be located on a lot that is contiguous with or directly across a street from an existing mall that is larger than 30,000 square feet gross floor area.

3. SITE DESIGN.

   a. Height Step Down. To provide compatible scale and relationships between new multi-story commercial buildings and existing adjacent single-story dwellings, the multi-story building(s) shall "step down" to create a building height transition to adjacent single-story building(s).

      The transition standard is met when the height of any portion of the taller structure does not exceed 1 foot of height for every foot separating that portion of the multi-story building from the adjacent dwelling.

Example of Height Transitions
(For illustrative purposes only.)



   b. Building Orientation. All new commercial developments shall have their buildings oriented to the street. The following standards will apply:

      Except as provided in subsections 2 and 3 below, all buildings shall have at least 1 primary building entrance facing an adjoining street (i.e. within 45 degrees of the street property line), or if the building is turned more than 45 degrees from the street (i.e. the front door is on a side elevation), the primary entrance shall not be more than 20 feet from a street sidewalk and a walkway shall connect the primary entrance to the sidewalk.

      1) In commercial districts, off street parking, driveways, and other vehicle areas shall not be placed between buildings and the street(s) to which they are oriented, except as provided under subsection 3. Off street parking in the commercial districts shall be oriented internally to the site and divided by landscaped areas meeting the standards of Section 17.20.060.10.

2) In commercial districts, the building orientation standard may be met with vehicle areas allowed between the street right-of-way and a building's primary entrance when the decision authority finds that the following criteria are met:

Example of a Building Entrance Oriented to the Right-of-Way.

a) Placing vehicle areas between the street right-of-way and the building's primary entrance will not adversely affect pedestrian safety and convenience based on: the distance from the street sidewalk to the building entrance, projected vehicle traffic volumes, available pedestrian walkways, and Section 17.26, Title 12, Standard Specifications and the adopted Transportation System Plan.

b) The proposed vehicle areas are limited to 1 driveway meeting the requirements of 17.26, Title 12, Standard Specifications and the adopted Transportation System Plan, with adjoining bays of not more than 8 consecutive parking spaces per bay (including ADA accessible spaces) on the side(s) of the drive aisle.

c) The building's primary entrance is connected to an adjoining street by a pedestrian walkway that meets the standards of Section 17.26.020.5.

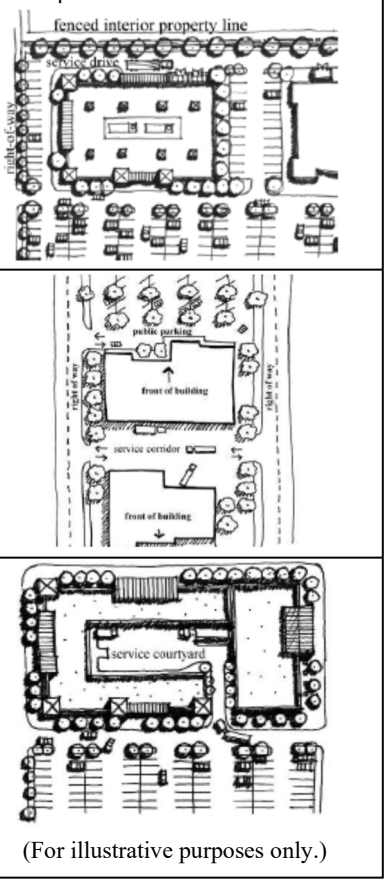
3) When there is insufficient street frontage to orient buildings to the street in a development with multiple buildings, a primary entrance may be oriented to a common green, plaza or courtyard. When oriented this way, the primary entrance(s) and common green, plaza or courtyard shall be connected to the street by a pedestrian walkway meeting the standards of Section 17.26.020.5.

4) Outdoor Service Areas. Outdoor service areas shall face either a fenced interior area, side or rear property line, a separate service corridor, a service alley, or a service courtyard.

a) If the location of an outdoor service area as proscribed by this Section is difficult to accommodate because of site considerations, the decision authority may determine that the service area may be located in another location with additional screening requirements.

b) Screening of outdoor service areas. Screening shall be provided at the ends of all service corridors or courtyards.

Examples of Outdoor Service Areas



(For illustrative purposes only.)

i. Outdoor service areas shall be screened either with a solid evergreen hedge or solid fence of materials similar to the rest of the development that is a minimum of 6 feet in height.

ii. Screening from public view by chain-link fence with or without slats is prohibited.

4. ARCHITECTURAL STANDARDS.

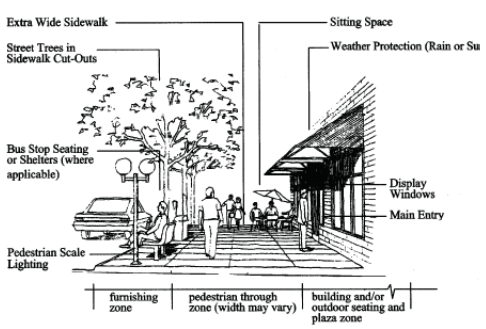
a. Pedestrian Orientation. The design of all buildings on a site shall support a safe and attractive pedestrian environment. This standard is met when the decision authority finds that all of the following criteria are met:

1) Primary building entrances shall open directly to the outside and, if not abutting a street, shall have walkways connecting them to the street sidewalk.

2) Corner buildings shall have corner entrances or shall provide a least 1 entrance within 20 feet of the street corner or street plaza.

3) Ground floor windows or window displays shall be provided along at least 45% of the building's ground floor street-facing elevations(s); windows and display boxes shall be integral to the building design.

Example of Pedestrian Amenities
(For illustrative purposes only.)



4) Primary building entrance(s) are designed with weather protection such as awnings, canopies, overhangs, or similar features.

5) Drive-through facilities, when allowed, shall conform to Section 17.20.860.6.t.

b. Human Scale design. The design of all buildings on a site shall be at a scale that is safe and inviting.

Example of Human Scale Design (For illustrative purposes only.)

Unacceptable

Acceptable

1) Regularly spaced and similarly shaped windows are provided on all building stories.

2) Ground floor retail spaces shall have display windows on the ground floor. At a minimum, the lower edge of the display windows shall be no higher than 4 feet above the sidewalk and the top edge shall be no less than 7 feet above the sidewalk. (Ord. 898, August 20, 2007)

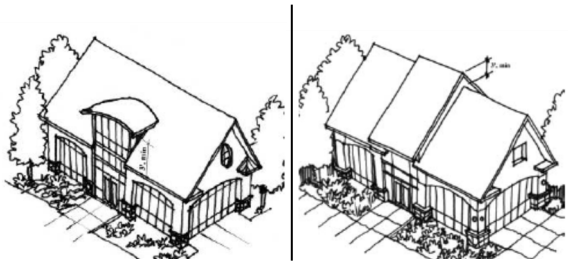
3) On multi-story buildings, ground floors are defined and separated from upper stories by appropriate architectural features that visually identify the transition from ground floor to upper story. These features should be compatible with the surrounding architecture. Such features include, but are not limited to: cornices, trim, awnings, canopies, arbors, trellises, overhangs, string courses, or other design features.

c. Standards for breaks in building length.

1) For all buildings more than 50 feet long:

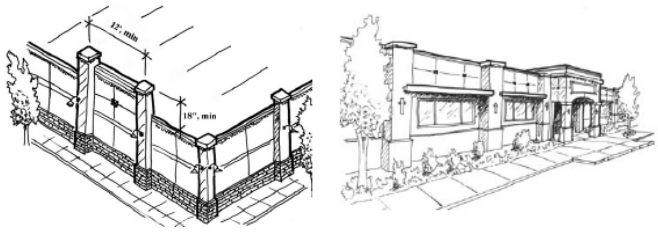
a) A pitched roof building shall have a break in the roof plane or wall plane, or articulation of the building face at least every 50 feet.

Examples of Pitched Roof Offsets (For illustrative purposes only.)



b) A flat roof building shall have a horizontal or vertical change in the wall plane, or articulation of the building face at least every 50 feet.

Examples of Flat Roof Offsets (For illustrative purposes only.)



2) Horizontal and vertical offsets required by this Section shall relate to the overall design and organization of the building, its entrances, and door and window treatments. Features shall be designed to emphasize building entrances.

3) Offsets should be grouped and organized in a manner to provide variation in scale and massing rather than providing a series of identical repeating masses.

4) Exceptions.

a) For walls not visible from public view.

b) An exception to the horizontal offset provisions for zero lot line setbacks on interior or side yards to enable a building to utilize the property fully.

c) Exceptions to the horizontal offset provisions for buildings abutting the public sidewalk.

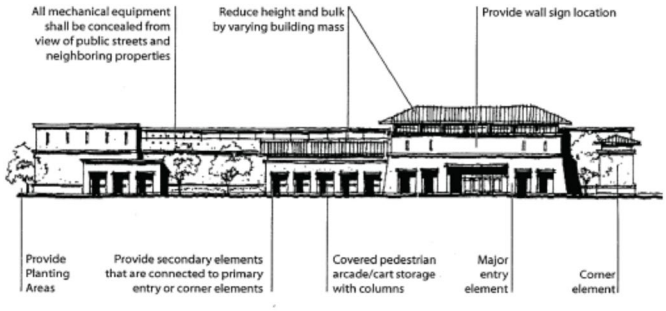
When a building abuts a public sidewalk, the horizontal offset provisions may be reduced from a depth of 3 feet to 12 inches

5) Standards for massing.

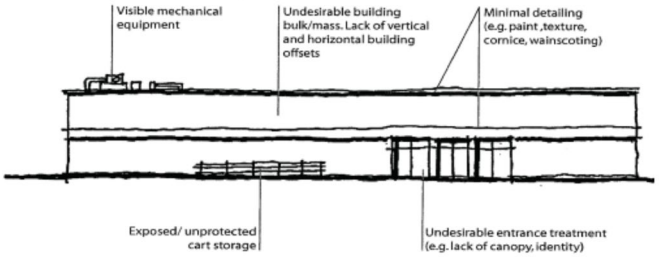
a) Building(s) with a pitched/false pitched roof. No building shall have a sloping roof plane more than 50 feet in length measured at the eave line without a break in the roof plane between the ridge/peak and the eave line at least 3 feet in height and 12 feet wide.

A combination of offsets and breaks in the roof plane may be used to satisfy this requirement. The total width of the offset combination shall not be less than 12 feet wide.

Example of Architectural Offsets, Massing and Detailing
(For illustrative purposes only.)



Acceptable Architectural Design



Unacceptable Architectural Design

b) Building(s) with a flat roof. No building shall have a wall plane more than 50 feet in length without a horizontal or vertical break in the cornice line at least 18 inches in height or 3 feet in depth and at least12 feet wide.

A combination of horizontal and vertical offsets may be used to satisfy this requirement. The total width of the offset combination shall not be less than 12 feet wide.

c) Grouping, variation and a combination of features is desirable to avoid repetition of offsets that are identical in size and shape.

5. LIGHTING. All new commercial development shall provide a lighting plan that meets the standards of Section 17.20.170.

   a. Rooftop Illumination. Buildings shall not have rooftop illumination other than indirect spotlighting

17.20.210 BACK LOTS AND FLAG LOTS

1. PURPOSE. The purposes of this section are to provide flexibility in the creation of new lots, while assuring proper access to city streets and services.
2. BACK LOTS. A back lot may be created only by partition. A new back lot shall not be created in a subdivision.
   a. The driveway serving a back lot shall have a minimum pavement width of 14 feet and maximum pavement width of 20 feet. The driveway shall be centered within an access easement.
   b. The easement for access to a back lot shall have a minimum width of 6 feet wider than the driveway throughout its entire length.
3. FLAG LOTS. A flag lot may be created either by partition or within a subdivision.
   a. The lot area occupied by the flag driveway shall not be counted as part of the required minimum lot area of that zoning district.
   b. Flag lot driveways shall be separated by at least twice the minimum frontage requirement of that zoning district.
   c. The flag lot driveway shall have a minimum pavement width of 14 feet and maximum pavement width of 20 feet. This supersedes the requirements contained in Standard Specifications for Public Works Construction, Section 300 – Street Design Standards, 2.22, for minimum and maximum driveway widths.
   d. The pole of a flag lot shall have a minimum width of 6 feet wider than the driveway throughout its entire length.

(Amended Ord. 913, September 2, 2009)

17.20.220 DOWNTOWN DEVELOPMENT DESIGN STANDARDS (Added Ord. 902, May 7, 2008)

1. Purpose. The following design standards apply to all commercial, attached residential, and mixed-use structures located within the Downtown Zones. The purpose of these standards is to assure a high quality, pedestrian-oriented development pattern in the downtown area consistent with the vision expressed in the Downtown Transportation and Revitalization Plan. The provisions of this section do not change the range of uses permitted on a property except as described in this section.
2. Design Standards for Attached Residential Structures. The standards of this section apply to development of attached residential structures in the Downtown Zones.
    a. Landscaping. The purpose of this standard is to create an attractive landscaped area when residential structures are set back from the front lot line. In addition to the requirements of Section 17.20.090, landscaping must be provided between structures and the street, as follows:
        1) Foundation landscaping. All street-facing elevations must have landscaping along their foundation. The landscaped area may be along the outer edge of a porch instead of the foundation. This landscaping requirement does not apply to portions of the building facade that provide access for pedestrians or vehicles to the building. The foundation landscaping must meet the following standards:
            a) The landscaped area must be at least 3 feet wide;
            b) There must be at least one three-gallon shrub for every 3 lineal feet of foundation. Shrubs shall meet the plant material requirements of Section 17.20.090.8; and
            c) Ground cover plants must cover the remainder of the landscaped area in accordance with Section 17.20.090.8.
        2) Front yard trees. There must be at least one tree in front of each residential structure. On corner lots, there must be one tree for each 30 feet of frontage on the side street. Tree selection is subject to an approved tree list maintained by the Public Works Director.
    b. Building setback on public streets and public plazas. The purpose of this standard is to reinforce the existing development pattern in downtown Stayton where buildings are placed close to the street.
        1) Primary buildings must not be set back from the front lot line more than 20 feet.
        2) A primary building may be set back from the front lot line more than 20 feet where the building has frontage on a public plazas and the following standards are met.
            a) A building wall that faces the plaza must be at the edge of the public plaza. Where the site has two frontages that are on the plaza, this standard must be met on both frontages. Where there are more than two such frontages, this standard must be met on any two frontages; and
            b) For ground floor residential uses, the building wall may be set back from the lot line to allow for a front porch at a main entrance. The maximum setback is 6 feet. The area between the building and an adjacent plaza must be hard-surfaced for use by pedestrians as an extension of the sidewalk.

c. Residential buffer. The purpose of this standard is to provide a transition in scale where a Downtown Zone is adjacent to a residential zone. Where a site in a Downtown Zone abuts or is across a street from an LD or MD zone, the following is required:

1) On sites that abut an LD or MD zone the following must be met:

a) In the portion of the site within 25 feet of the residential zone, the building height limits are those of the adjacent residential zone; and

b) A 10 foot deep area landscaped to the standards of Section 17.20.090 must be provided along any lot line that abuts the residential zone.

2) On sites across the street from a LD or MD zone the following must be met:

a) On the portion of the site within 15 feet of the intervening street, the height limits are those of the residential zone across the street; and

b) A 10 foot deep area landscaped to the standards of Section 17.20.090 must be provided along the lot line across the street from the residential zone. Pedestrian and bicycle access is allowed, but may not be more than 6 feet wide.

d. Avoid large monumental building elevations. The purpose of this standard is to provide for variety and articulation of buildings similar to the existing development pattern in downtown Stayton. In addition to the Architectural Standards set out in Section 17.20.190.3, the front elevation of large structures must be divided into smaller areas or planes. When the front elevation of a structure is more than 750 square feet in area, the elevation must be divided into distinct planes of 500 square feet or less. For the purpose of this standard, areas of wall that are entirely separated from other wall areas by a projection, such as the porch or a roof over a porch, are also individual building wall planes. This division may be accomplished by any feature found in Section 17.20.190.3.b.

e. Roofs. The purpose of this standard is to require traditional roof forms consistent with existing development patterns in downtown Stayton. Roofs should have significant pitch, or if flat, be designed with a cornice or parapet. Primary structures must have either:

1) A sloped roof with a pitch that is no flatter than 6/12 and no steeper than 12/12; or

2) A roof with a pitch of less than 6/12 if either:

a) The space on top of the roof is used as a deck or balcony that is no more than 150 square feet in area and is accessible from an interior room; or

b) A cornice or parapet that meets the following:

i. There must be two parts to the cornice or parapet. The top part must project at least 6 inches from the face of the building and be at least 2 inches further from the face of the building than the bottom part of the cornice or parapet; and

ii. The cornice or parapet shall be at least 18 inches high on buildings less than 30 feet in height and at least 24 inches high on buildings 30 feet or greater in height.

f. Main entrance. The purpose of this standard is to locate and design building entrances that are safe, accessible from the street, and have weather protection.

1) Location of main entrance. The main entrance of the primary structure must face the street lot line or plaza. Where there is more than one front lot line or plaza, the entrance

may face either of them or to the corner. For residential developments there are the following exceptions:

a) For buildings that have more than one main entrance only one entrance must meet this requirement.

b) Entrances that face a shared landscaped courtyard are exempt from this requirement.

2) Front porch at main entrances to residential uses in a mixed-use development. In the DCMU and DRMU Zones, there must be a front porch at the main entrance to residential portions of a mixed-use development, if the main entrance faces a street. If the porch projects out from the building it must have a roof. If the roof of a required porch is developed as a deck or balcony it may be flat. If the main entrance is to a single dwelling unit, the covered area provided by the porch must be at least 6 feet wide and 4 feet deep. If the main entrance is to a porch that provides the entrance to 2 or more dwelling units, the covered area provided by the porch must be at least 9 feet wide and 7 feet deep. (Amended Ord. 930, November 18, 2010)

g. Vehicle areas. The purpose of this standard is to emphasize the traditional development pattern in downtown Stayton where buildings connect to the street, and where vehicular parking and loading areas are of secondary importance.

1) Alleys. If the site is served by an alley, access for motor vehicles must be from the alley, not from a street frontage.

2) Vehicle areas between the building and the street. Except for allowed parking in front of approved garages, there are no vehicle areas allowed between the building and the street. If a site is a corner lot, this standard must be met on both frontages. If a site has more than two front lot lines, this standard must be met on two frontages.

Each dwelling unit in an attached residential structure is allowed one 9-foot wide driveway.

3) Parking areas in the front yard. Except for allowed parking in front of approved garages, parking areas may not be located in the front yard.

4) Attached garages. When parking is provided in a garage attached to the primary structure and garage doors face a street all of the following standards must be met:

a) The garage must not be more than 40 percent of the length of the building frontage or 8 feet long, whichever is greater.

b) The front of the garage shall be set back at least 4 feet from the front facade of the house.

c) Unless the garage serves three or more residential units, garage doors that are part of the street-facing elevations of a primary structure may be no more than 75 square feet in area.

d) There may be no more than one garage door per 16 feet of building frontage.

5) Driveways. Driveways for attached residential structures must meet the following.

a) Driveways may be paired so that there is a single curb-cut providing access to two attached houses. The maximum width allowed for the paired driveway is 18 feet.

b) There must be at least 18 feet between single or paired driveways. The distance between driveways is measured along the front lot line.

h. Foundation material. The purpose of this standard is to minimize the impact of exposed foundations. Plain concrete block or plain concrete may only be used as exposed foundation material if the foundation material is not revealed more than 18 inches above the finished grade level adjacent to the foundation wall. Otherwise, exterior finish materials must be used.

i. Exterior finish materials. The purpose of this standard is to require high quality materials that are complementary to the traditional materials used in downtown Stayton.

   1) Smooth concrete block, plain concrete, corrugated metal, full-sheet plywood, synthetic stucco, and sheet pressboard are not allowed as exterior finish material, except as secondary finishes if they cover no more than 10 percent of the surface area of each facade.

   2) Where wood products are used for siding, the siding must be shingles, or horizontal siding, not shakes or board and batten.

   3) Where horizontal siding is used, it must be shiplap or clapboard siding composed of boards, composite boards manufactured from wood or other products, such as hardboard or hardiplank, vinyl or aluminum siding which is in a clapboard or shiplap pattern when the visible portion of the board product is at least 4 ½ inches and no more than 10 inches wide.

j. Windows. The purpose of this standard is to require the design of buildings, particularly windows, to follow original traditions established by older buildings in downtown Stayton. Street-facing windows must meet the following. Windows in rooms with a finished floor height 4 feet or more below grade are exempt from this standard:

   1) Each window must be square or have the vertical dimension greater than the horizontal dimension;

   2) A horizontal window may be created when:

      a. Two or more vertical windows are grouped together to provide a horizontal opening in the wall facade, and they are either all the same size, or no more than two sizes are used. Where two sizes of windows are used in a group, the smaller window size must be on the outer edges of the grouping. The windows on the outer edges of the grouping must be vertical; the center window or windows may be vertical, square, or horizontal; or

      b. There is a band of individual lites across the top of the horizontal window. These small lites must be vertical and cover at least 20 percent of the total height of the window.

k. Trim. The purpose of this standard is to require the design of buildings, particularly the use of trim around major building elements, to follow original traditions established by older buildings in downtown Stayton. Trim must mark all building rooflines, porches, windows and doors on all elevations. The trim must be at least 3½ inches wide. Buildings with an exterior material of stucco or masonry are exempt from this standard.

l. Roof-mounted equipment. The purpose of this standard is to minimize the visual impact of roof-mounted equipment. All roof-mounted equipment, including HVAC facilities and satellite dishes and other communication equipment, must be screened in one of the following ways. Solar heating or solar electric panels are exempt from this standard:

   1) A parapet as tall as the tallest part of the equipment;

2) A screen around the equipment that is as tall as the tallest part of the equipment; or

3) The equipment is set back from the street-facing perimeters of the building 3 feet for each foot of height of the equipment.

m. Exterior stairs and fire escapes. The purpose of this standard is to minimize the visual impact of fire escapes and exterior stairs. Exterior stairs, other than those leading to a main entrance, must be at least 40 feet from all streets. Fire escapes must be at least 40 feet from all streets.

n. Roof eaves. The purpose of this standard is to require the design of buildings, particularly projecting roof eaves, to follow original traditions established by older buildings in downtown Stayton. Roof eaves must project from the building wall at least 12 inches on all elevations. Buildings that take advantage of the cornice option are exempt from this standard.

o. Trash Receptacles. The purpose of this standard is assure that the location of trash receptacles does not detract from the visual appeal of downtown Stayton. In addition to the standards of Section 17.20.190.2.c.8, trash receptacles must be stored in the rear yard.

3. Standards for All Commercial and Mixed Use Structures. The standards in this section apply to development of all structures in the Downtown zones that are not used exclusively for residential use. These standards also apply to exterior alterations in these zones.

a. Building placement and the street. The purpose of this standard is to create an attractive area when commercial or mixed-use structures are set back from the property line. Landscaping, an arcade, or a hard-surfaced expansion of the pedestrian path must be provided between a structure and the street. All street-facing elevations must meet one of the following options. Structures built to the front lot line are exempt from the requirements of this subsection. Where there is more than one front lot line, only those frontages where the structure is built to the front lot line are exempt from the requirements of this paragraph.

1) Foundation landscaping option. All street-facing elevations must have landscaping along their foundation. This landscaping requirement does not apply to portions of the building facade that provide access for pedestrians or vehicles to the building. The foundation landscaping must meet all of the following standards:

a) The landscaped area must be at least 3 feet wide.

b) There must be at least one shrub, meeting the plant material requirements of Section 17.20.090.8, for every 3 lineal feet of foundation.

c) Ground cover plants must cover the remainder of the landscaped area in accordance with Section 17.20.090.8.

2) Hard-surface sidewalk extension option. The area between the building and the street lot line must be hard-surfaced for use by pedestrians as an extension of the sidewalk.

a) The building walls may be set back no more than 6 feet from the street lot line, unless the hard-surfaced area is designated as a public plaza.

b) For each 100 square feet of hard-surface area between the building and the street lot line at least one of the following amenities must be provided. Structures built within 2 feet of the street lot line are exempt from the requirements of this paragraph.

i. A bench or other seating;

ii. A tree;

iii. A landscape planter;

iv. A drinking fountain;

v. A kiosk.

b. Reinforce the corner. The purpose of this standard is to emphasize the corners of buildings at street intersections as places with high levels of pedestrian activity and visual interest. On structures with at least two frontages on the corner where two public sidewalks meet:

1) The primary structures on corner lots at the property lines must be within 6 feet of both street lot lines. Where a site has more than one corner, this requirement must be met on only one corner;

2) At least one of the street-facing walls must be at least 40 feet long;

3) The highest point of the building's street-facing elevations must be within 25 feet of the corner;

4) The location of a main building entrance must be on a street-facing wall and either at the corner, or within 25 feet of the corner; and

5) Parking areas or entrances to parking areas are not permitted within 40 feet of the corner.

c. Avoid large monumental building elevations. The purpose of this standard is to provide for variety and articulation of buildings similar to the existing development pattern in downtown Stayton. The front elevation of large structures must be divided into smaller areas or planes. When the front elevation of a structure is more than 750 square feet in area, the elevation must be divided into distinct planes of 500 square feet or less. For the purpose of this standard, areas of wall that are entirely separated from other wall areas by a projection, such as the porch or a roof over a porch, are also individual building wall planes. This division can by accomplished by features found in Section 17.20.200.4.

d. Residential Buffer. The purpose of this standard is to provide a transition in scale where the Downtown Zone is adjacent to a residential zone. Where a site in a Downtown Zone abuts or is across a street from a residential zone, the following is required:

1) On sites that abut an LD or MD zone the following must be met:

a) In the portion of the site within 25 feet of the residential zone, the building height limits are those of the adjacent residential zone; and

b) A 10-foot deep area landscaped to the standards of Section 17.20.090 must be provided along any lot line that abuts the residential zone.

2) On sites across the street from a residential zone the following must be met:

a) On the portion of the site within 15 feet of the intervening street, the height limits are those of the residential zone across the street; and

b) A 10-foot deep area landscaped to the standards of Section 17.20.090 must be provided along the property line across the street from the residential zone. Pedestrian and bicycle access is allowed, but may not be more than 6 feet wide.

e. Building Orientation and Primary Entrance: The purpose of this section is to require buildings and entrances to be oriented to the street, with windows looking out onto and

surveying the street, in order to make walking safer and direct. Requirements for orientation and primary entrances are intended to provide for convenient, direct, and accessible pedestrian access to and from public sidewalks; provide a safe, pleasant and enjoyable pedestrian experience by connecting activities within a structure to the adjacent sidewalk; and promote walking to and between retail and commercial activities.

All new buildings that are not exclusively residential in the Downtown Zones shall comply with the following standards for Building Orientation and Primary Entrance:

1) All buildings shall have their primary entrances face an abutting street, rather than a parking area. The primary entrance is defined as the principal entry through which people enter the building. A building may have more than one primary entry, as defined in the Uniform Building Code.

2) Buildings shall have a primary entrance connecting directly between the street and the building interior. This entrance shall be open to the public during all business hours.

3) Primary building entrances shall be architecturally emphasized and visible from the street.

4) Exterior lighting should be an integral part of the architectural and landscape design. The minimum lighting level for building entries is 4 foot-candles. Lighting shall be a pedestrian scale, between 3 feet and 12 feet in height and the source light shall be shielded to reduce glare.

5) For building facades over 100 feet in length facing a street, two or more building entrances on the street must be provided.

6) At a minimum, building entrances shall incorporate arcades, roofs, porches, alcoves, porticoes or awnings that protect pedestrians from the rain and sun. Rain and sun protection is encouraged along all street frontages. (Amended Ord 1015, February 15, 2018)

   a) When installing new awnings, they shall extend out from the building front to cover at least two-thirds of the sidewalk unless a building is setback from the front property line or it is shown that such a distance will interfere with existing trees, poles, etc., to provide pedestrian protection from the elements. Awnings shall be maintained in good repair and kept clean and free of moss and algae. (Added Ord 1015, February 15, 2018)

   b) Awnings shall be flat or sloping. Awnings shall be made of metal, wood, canvas or similar materials. Rounded bubble or plastic awnings are prohibited. Fully glazed awnings are not permitted. (Added Ord 1015, February 15, 2018)

   c) Awnings shall fit within the window bays either above the main glass or the transom light so as not to obscure or distract from significant architectural features. (Added Ord 1015, February 15, 2018)

   d) The color of the awning shall be compatible and attractive with its attached building. (Added Ord 1015, February 15, 2018)

   e) Lighting which provides illumination to the sidewalk and signage is required from dusk until midnight. (Added Ord 1015, February 15, 2018)

   f) Awnings shall be a minimum of eight feet above the sidewalk. (Added Ord 1015, February 15, 2018)

7) If the building has frontage on more than one street, the building shall provide a primary entrance oriented to one of the streets, or a single entrance to the corner where two streets intersect.

f. Vehicle areas. The purpose of this standard is to emphasize the traditional development pattern in downtown Stayton where buildings connect to the street, and where vehicular parking and loading areas are of secondary importance.

1) Alleys. If the site is served by an alley, access for motor vehicles must be from the alley, not from a street frontage.

2) Vehicle areas between the building and the street. Except for allowed parking in front of approved garages, there are no vehicle areas allowed between the building and the street. If a site is a corner lot, this standard must be met on both frontages. If a site has more than two front lot lines, this standard must be met on two frontages.

3) Access to vehicle areas and adjacent residential zones. Access to vehicle areas must be located at least 20 feet from any adjacent residential zone.

4) Parking area coverage. No more than 35 percent of the site may be used for vehicle parking areas. (Amended Ord. 913, September 2, 2009)

5) Vehicle area screening. Where vehicle areas are across a local street from a residential zone, there must be a 6-foot wide landscaped area along the front lot line that meets the standards of Section 17.20.090.

g. Exterior finish materials. The purpose of this standard is to require high quality materials that are complementary to the traditional materials used in downtown Stayton.

1) Along 3rd Avenue, commercial and mixed use buildings shall be constructed of materials complementary to existing materials including textured pre-cast concrete block, clay (terra cotta) tile, brick, stucco and wood frame.

2) Smooth concrete block, plain concrete, corrugated metal, full-sheet plywood, synthetic stucco, and sheet pressboard are not allowed as exterior finish material, except as secondary finishes if they cover no more than 10% of the surface area of any facade. Composite boards manufactured from wood or other products, such as hardboard or hardiplank, may be used when the visible portion of the board product is at least 4 ½ inches and no more than 10 inches wide. Foundation material may be plain concrete or plain concrete block when the foundation material does not extend for more than 3 feet above the finished grade level adjacent to the foundation wall.

3) Where there is an exterior alteration to an existing building, the exterior finish materials on the portion of the building being altered or added must visually match the appearance of those on the existing building. However, if the exterior finishes and materials on the existing building do not meet the standards of Section 17.20.220.4.g.1, above, any material that meets the standards of Section 17.20.220.4.g.1 may be used.

4) Predominant colors shall be earth tones, defined as shades of green, red, gray, brown and yellow with a light reflecting value of no less than 15 or no more than 50%. A palette of approved colors shall be maintained in the office of the Planning and Development Department for reference. (Amended Ord 1015, February 15, 2018)

a) Contrasting colors shall be used to accentuate and highlight trim, windows, and other building features, and are exempt from the color palette and light reflecting values required for the body of the building. The City Planner shall approve the combination of colors used for body and trim as consistent with the overall theme desired for the downtown area. (Added Ord 1015, February 15, 2018)

b) Buildings on the National Register of Historic Places shall be exempt from these requirements. (Added Ord 1015, February 15, 2018)

h. Roof-mounted equipment. The purpose of this standard is to minimize the visual impact of roof-mounted equipment. All roof-mounted equipment, including HVAC facilities and satellite dishes and other communication equipment, must be screened in one of the following ways. Solar heating and solar electric panels are exempt from this standard.

1) A parapet as tall as the tallest part of the equipment;

2) A screen around the equipment that is as tall as the tallest part of the equipment; or

3) The equipment is set back from the street-facing perimeters of the building 3 feet for each foot of height of the equipment.

i. Ground floor windows. The purpose of this standard is to require interesting and active ground floor uses where activities within buildings have a positive connection to pedestrians in downtown Stayton. All exterior walls on the ground level which face a front lot line, sidewalk, plaza or other public open space or right-of-way must meet the following standards:

1) The windows must be at least 50% of the length and 25% of the ground level wall area. Ground level wall areas include all exterior wall areas up to 9 feet above the finished grade.

2) Required window areas must be either windows that allow views into working areas or lobbies, pedestrian entrances, or display windows set into the wall. The bottom of the windows must be no more than 4 feet above the adjacent exterior grade.

j. Distinct ground floor. The purpose of this standard is to emphasize the traditional development pattern in downtown Stayton where the ground floor of buildings is clearly defined. The ground level of the primary structure must be visually distinct from upper stories. This separation may be provided by:

1) A cornice above the ground level;

2) An arcade;

3) Changes in material or texture; or

4) A row of clerestory windows on the building's street-facing elevation.

k. Roofs. The purpose of this standard is to encourage traditional roof forms consistent with existing development patterns in downtown Stayton.

1) In the CCMU Zone, roofs shall be flat, and designed with a cornice or parapet. Buildings must have a roof with a pitch of less than 6/12 and a cornice or parapet that meets the following:

a) There must be two parts to the cornice or parapet. The top part must project at least 6 inches from the face of the building and be at least 2 inches further from the face of the building than the bottom part of the cornice or parapet.

b) The height of the cornice or parapet is based on the height of the building as follows:

i. Buildings 10 feet or less in height must have a cornice or parapet at least 12 inches high.

ii. Buildings greater than 10 feet and less than 30 feet in height must have a cornice or parapet at least 18 inches high.

iii. Buildings 30 feet or greater in height must have a cornice or parapet at least 24 inches high.

2) In the DCMU and DRMU Zones, roofs shall be flat, and designed with a cornice or parapet, or steeply pitched. Buildings must have:

a) A sloped roof with a pitch that is no flatter than 6/12 and no steeper than 12/12; or

b) A roof with a pitch of less than 6/12 and a cornice or parapet that meets the standards of Section 17.20.220.3.k.1)b) above. (Amended Ord. 930 November 18, 2010)

(All of Section 17.20.220 added Ord. 902, May 7, 2008)

17.20.230 INDUSTRIAL DESIGN STANDARDS (Added Ord. 908, May 6, 2009)

1. PURPOSE. The purpose of the industrial design standards is to provide for originality, flexibility, and innovation in site planning and development in the Industrial Zones while maintaining a standard that improves the appearance of the zones and protects neighboring residential properties from the potential impacts of industrial development. The standards of this section apply to all new construction, additions and exterior alterations in the Industrial Zones.
2. SITE DESIGN.
   a. Height Step Down. To provide compatible scale and relationships between new multi-story industrial buildings and existing adjacent dwellings not in an industrial zone, the multi-story building shall "step down" to create a building height transition to adjacent single-story dwellings.

      The transition standard is met when the height of any portion of the taller structure does not exceed 3 feet in height for every 2 feet separating that portion of the multi-story building from the adjacent dwelling. This provision shall apply to any industrial building with a vertical wall height of 14 feet or more, regardless of whether the interior contains more than one story.

   b. Outdoor Service Areas. Outdoor service areas shall either face an interior area, side or rear property line, a separate service corridor, a service alley, or a service courtyard.
      1) If the location of an outdoor service area as proscribed by this Section is difficult to accommodate because of site considerations, the decision authority may determine that the service area may be located in another location with additional screening requirements.
      2) Screening of outdoor service areas. Screening shall be provided when an outdoor service area is adjacent to a property in residential use or adjacent to a residential zone. Screening shall also be provided to soften the effects of outdoor service areas as they may be viewed from a public street.
         a. Outdoor service areas shall be screened either with evergreen hedge or solid fence of materials similar to the rest of the development that is a minimum of 6 feet in height.
         b. When the outdoor service area is more than 300 feet from a neighboring residence, screening is not required.
   c. Parking Areas. In addition to the requirements of Section 17.20.060, parking areas shall meet the requirements of Section 17.20.090.12.
3. ARCHITECTURAL STANDARDS.
   a. Pedestrian Orientation. The design of all new buildings on a site shall support a safe pedestrian environment. This standard is met when the decision authority finds that all of the following criteria are met:
      1) Primary building entrances shall have walkways connecting to the street sidewalk.
      2) Any portion of an industrial building that is used for sales to the public shall meet the architectural standards of Section 17.20.200.4.
   b. Standards for breaks in building facade.

1) For all buildings more than 75 feet long:

   a) A pitched roof building shall have a break in the roof plane or wall, or articulation of the building face at least every 50 feet.

   b) A flat roof building shall have a horizontal or vertical change in the wall plane, or articulation of the building face at least every 50 feet.

   c) Wall changes may be accomplished by use of differing architectural materials or building siding and need not be physical changes in the wall plane.

   d) Horizontal and vertical offsets required by this Section shall relate to the overall design and organization of the building, its entrances, and door and window treatments. Features shall be designed to emphasize building entrances.

   e) The above standards shall not apply to walls not visible from a public street or from neighboring residential properties within the city limits.

4. LIGHTING. All new industrial development shall provide a lighting plan that meets the standards of Section 17.20.170.

(Added Ord. 908, May 6, 2009)

17.20.240 ACCESSORY DWELLING UNITS (Added Ord. 1010, Oct. 20, 2017)

1. PURPOSE. The purpose of these standards is to provide for opportunity for the construction or placement of a small dwelling unit that is accessory to and subordinate to the principal dwelling unit on a single family lot without requiring additional lot area for the lot.
2. LOCATION PERMITTED. One accessory dwelling unit may be located on a lot with a single family detached dwelling in a Residential Zone. (Amended Ord 1052, February 2, 2022)
3. TYPES OF ACCESSORY DWELLING UNITS PERMITTED. An accessory dwelling may be created by any of the following means:
    a. Division of an existing single family detached dwelling to include an accessory dwelling unit.
    b. Addition to an existing single family detached dwelling to create an accessory dwelling unit.
    c. Creation of an accessory dwelling unit in an existing accessory building.
    d. Construction or placement of an accessory building on the parcel detached from the principal dwelling unit.
4. SETBACKS. If attached to the principal dwelling unit, the accessory dwelling unit shall meet the minimum setback requirements of Section 17.16.070.3.a. Detached accessory dwelling units shall meet the setback and height restrictions of Section 17.20.040.
5. GROSS FLOOR AREA. The minimum gross floor area permitted for an accessory dwelling unit shall be 250 square feet. The maximum gross floor area permitted for an accessory dwelling unit shall be 800 square feet. Creation of an accessory dwelling unit shall not reduce the gross floor area of the principal dwelling unit below 1,000 square feet.
6. [Repealed Ord 1052, February 2, 2022)
7. [Repealed Ord 1052, February 2, 2022)
8. CODE COMPLIANCE. The accessory dwelling unit shall meet all applicable structural, electrical, plumbing, fire, and life safety codes.

17.20.250 RECREATIONAL VEHICLE PARKS AND CAMPGROUNDS

(Added Ord. 1029, May 1, 2019)

1. PURPOSE. The purposes of this Section shall be
   a. to provide rules, regulations, requirements and standards for development of recreational vehicle parks and campgrounds in the City ensuring that the public health, safety and general welfare are protected;
   b. to promote orderly growth and development together with the conservation, protection and proper use of land.
   c. to minimize the impacts of recreational vehicle parks and campgrounds on neighboring properties;
   d. to assure the comfort and protection of the occupants of recreational vehicle parks and campgrounds; and
   e. to make proper provision for all public facilities in recreational vehicle parks and campgrounds.
2. METHOD OF ADOPTION. Recreational vehicle parks and campgrounds are subject to site plan review and shall be approved pursuant to the requirements of Sections 17.12.070 through 17.12.100.
3. SUBMITTAL REQUIREMENTS. All applications submitted for approval of a recreational vehicle park or campground development shall consist of a preliminary development plan to a scale of 1 inch equals not more than 50 feet. The application shall contain, but not be limited to, the following information in addition to the requirements of Section 17.12.220.
   a. Name(s) of person owning and/or controlling the land proposed for the park.
   b. Name of the recreational vehicle park or campground and address.
   c. Boundaries and dimensions of the recreational vehicle park or campground.
   d. Facility map showing relationship of the recreational vehicle park or campground to adjacent properties and surrounding zoning.
   e. Location and dimensions of each site with each site designated by number.
   f. Location and dimensions of each existing or proposed building.
   g. Location and width of park streets and pedestrian ways.
   h. Location of recreational areas and buildings and common area.
   i. Location of available fire hydrants.
   j. Enlarged plot plan of a typical site showing location of the pad for a recreational vehicle or tent, fire ring, picnic table, parking, utility connections, and landscaping.
   k. Access features shall conform to the requirements set forth in Section 17.26.020. Section 17.26.020 also specifies submittal requirements for requesting an access permit and approval.
   l. A survey plat of the property.
   m. Building elevation drawings of all new structures.

n. A water system plan meeting Public Works Design Standards.

o. A sewerage system plan prepared in accordance with Public Works Design Standards.

p. A preliminary storm water report and drainage system plan showing all drainage system improvements on site including storm water runoff calculations in accordance with Public Works Design Standards.

q. Location of and method of garbage collection and disposal.

r. Park rules and regulations.

4. DESIGN STANDARDS. The following standards and requirements shall govern the design of a recreational vehicle park or campground. The design shall also meet other applicable standards and requirements of this Chapter and the approval criteria of Section 17.12.220. Where there is a difference between the standards of this Section and any other provision of this Code, the more stringent standard shall apply.

a. A recreational vehicle park or campground shall not be less than 3 acres in area.

b. Individual spaces shall contain a minimum of 1,500 square feet with a width of no less than 30 feet for any space designed to accommodate a recreational vehicle and a minimum of 1,000 square feet with a width of no less than 20 feet for any space designed to accommodate a tent only.

c. Only one recreational vehicle shall be permitted on a space.

d. No building, structure, or land within the boundaries of a recreational vehicle park or campground shall be used for any purpose except for the uses permitted as follows:

1) Recreational vehicles, together with the normal accessory uses such as cabana, patio slab, ramada, and storage and washroom buildings.

2) Private and public utilities and services as permitted by City approval.

3) Community recreation facilities, including swimming pool, for the residents of the park and guests only.

4) One residence for the use of a manager or a caretaker responsible for maintaining or operating the property.

e. All recreational vehicle or camping spaces shall be located at least 30 feet from the property boundary line abutting upon a public street, and at least 15 feet from other property lines, except that when a sound-deadening fireproof barrier, as an earthen berm or masonry wall is provided, the Planning Commission may allow the 15-foot setback to be reduced to 5 feet, but shall not reduce the 30-foot setback.

f. Recreational vehicles shall not be located closer than 25 feet from any other recreational vehicle or permanent building within the recreational vehicle park.

g. Each site shall be provided with an asphalt or concrete pad for the placement of a recreational vehicle a minimum of 12 feet wide.

h. The recreational vehicle park or campground entrance shall be designed to provide a clearly defined main entry and exit point to the park. Secondary entry points may be required to provide ingress and egress for emergency vehicles. The main entry shall include street lighting and a sign(s) identifying the name of the facility and providing direction to the manager's office or residence. Controlled ingress and egress may be installed subject to decision authority approval of design.

i. Two off street parking spaces shall be provided at each recreational vehicle space. Also, additional parking space shall be provided in parking areas distributed around the park (not part of the common area) not to be less than 1 parking space per 10 spaces for parks of 100 spaces or less, and 1 parking space per 20 spaces for each space over 100. Parking spaces shall be provided adjacent to bathhouses and other community buildings.

j. Each space shall be provided with a picnic table with benches and a fire ring or barbeque apparatus approved by the Fire Marshall.

k. Adequate street lighting shall be provided within the park in accordance with a plan approved by the decision authority.

l. All utilities shall be installed underground unless otherwise approved by the decision authority.

m. Approved fire hydrants shall be installed so that all recreational vehicles, and other structures are within 250 feet of an approved fire hydrant as measured along the center line of a street.

n. Buffering or screening shall be installed along park boundaries in accordance with a landscaping plan approved by the Planning Commission. All buffering or screening shall be in the form of a sight-obscuring fence, wall, evergreen or other suitable planting, at least 6 feet high. A chain link fence with slats may not be used as a sight-obscuring fence.

o. A pet waste disposal bag dispensing station shall be provided for each 25 sites.

p. Landscaping shall be installed in accordance with a landscaping plan approved by the decision authority.

q. Trash receptacles for the disposal of solid waste materials shall be provided in convenient locations for the use of occupants of the park, screened from open view and located within 200 feet of each recreational vehicle space. Refuse containers shall have tight-fitting lids, covers or closable tops, and shall be durable, rust-resistant, water-tight, rodent-proof and washable and shall be enclosed by sight obscuring fence or screening and situated on a concrete pad. There shall be a minimum of four cubic feet of solid waste receptacle per space. Refuse shall be collected and disposed of on a regular basis in accordance with City garbage franchise regulations.

r. If storage yards for vehicles, boats, or trailers are provided, the storage yard shall be provided at the rate of up to 100 square feet per recreational vehicle space depending on the clientele served. An 8-foot high sight obscuring fence with a lockable gate shall be erected around the perimeter of the storage yard. If no storage yard for is provided, storage shall not be permitted within the park boundaries.

s. If pedestrian walkways are provided separate from the vehicular ways within the park, they shall be at least 5 feet wide and be composed of concrete or bituminous concrete at least 3 inches thick.

t. All vehicular ways and parking areas within the park or campground shall be designed to provide safe and convenient access to all spaces and to facilities for common use by occupants, shall be graded to drain and surfaced with asphalt or concrete to maintain proper drainage and shall be continuously maintained by the owner.

u. Minimum park street improvement width for shall be 14 feet for a one-way local street and 24 feet for a two-way street.

v. Each recreational vehicle space shall be provided with municipal water and municipal sanitary sewage service. All recreational vehicles staying in the park shall be connected to the water and sewage service. Up to ten percent of the total spaces may be without water and/or sewer if proposed and approved as such at time of application approval.

w. Each space in a park shall be within 500 feet of a building that contains toilets and showers.

x. Each recreational vehicle space shall be provided with electrical service. Up to ten percent of the total spaces may be without electrical service if proposed and approved as such at time of application approval.

y. The park or campground shall provide one utility building or room containing a minimum of one clothes washing machine, one clothes drying machine for each thirty (30) spaces and shall include space for clothes sorting and folding.

z. Each site shall be marked for identification for safety and security reasons. Markers must be easily readable from the driveways in day or night conditions.

5. OPERATIONAL STANDARDS.

a. Occupancy of space shall be limited to 180 consecutive days. Guests must check out for a minimum of 7 days between stays. Park management shall keep records of guest registration and shall make those records available for inspection by City staff on a quarterly basis.

b. Electrical Connections. All electrical connections shall comply with the State of Oregon electrical code and be duly inspected.

c. Water Connections. All connections of water to a site and to an occupied recreational vehicle shall comply with the State of Oregon Plumbing Specialty Code, and the City of Stayton Public Works Design Standards.

d. Sewer Connections. All sewer connections shall comply with the State of Oregon Plumbing Specialty Code and the City of Stayton Public Works Design Standards.

e. Fire Extinguishers. Portable fire extinguishers approved by the Fire Marshall shall be kept in service buildings and at other locations conveniently and readily accessible for use by all occupants and be maintained in good operating conditions.

f. Fire Hazards. The owner of the park shall be responsible for maintaining the park or campground free of any brush, leaves, and weeds which might facilitate the spread of fires between sites and buildings in the park.

g. Inspections. The Building Official may check the park a minimum of once a year and submit to the park or campground owner and manager a written report stating whether or not the park is in compliance with these standards. If not in compliance, the owner must make repairs as are required or will be considered to be in violation of this Code and subject to enforcement action.

h. Refuse Burning. Burning of refuse shall not be permitted.

i. Park Administration. It shall be the responsibility of the owner(s) to see that the provisions of this Section are observed and maintained within their facility, and for failure to do so shall be subject to the penalties provided for violation of this Title. There shall be an on-site resident manager.

j. Park owners shall initiate procedures to assume title or ownership of any derelict, abandoned and inoperable recreational vehicles and personal property no more than 30 days after their abandonment.

(Added Ord. 1029, May 1, 2019)

17.20.260 LIVE-WORK UNITS (Added Ord. 1059, October 19, 2022)

The following provisions shall apply to any newly created live-work unit.

1. PURPOSE. Whereas live-work units are permitted in zones where single family dwellings are not permitted uses, the purpose of these regulations is to distinguish between a single family dwelling with a permissible home occupation and a dwelling in a live-work unit in a building with only one dwelling unit.

2. LOCATION OF BUSINESS USE. The business use of live-work units shall be located on the ground floor and be accessible directly from the outside without proceeding through the residential portion of the unit.

3. MIX OF COMMERCIAL/RESIDENTIAL SPACE. No more than 50% of the unit floor area may be dedicated to the residential use.

4. OFF-STREET PARKING. The minimum off-street parking shall be the minimum required for either the commercial use or the dwelling, in accordance Section 17.20.060, but not both.

5. COMPLIANCE WITH OTHER CODES. The unit shall be approved by the Building Official as compliant with applicable structural codes and life/safety codes.

(Added Ord. 1059, October 19, 2022)

CHAPTER 17.24
LAND DIVISIONS

Adopted Ord. 894, January 2, 2007
Amended Ord. 898, August 20, 2007
Amended Ord. 901, April 16, 2008
Amended Ord. 902, May 7, 2008
Amended Ord. 910, June 3, 2009
Amended Ord. 913, September 2, 2009
Amended Ord. 949, April 17, 2013
Amended Ord. 1017, April 18, 2018
Amended Ord. 1034, July 17, 2019
Amended Ord. 1037, November 6, 2019

CHAPTER 17.24

LAND DIVISIONS

SECTIONS

17.24.010 PURPOSE AND INTENT OF LAND DIVISION REGULATIONS

1. In the interpretation and application of this title, the provisions hereof shall be held to be the minimum provisions adopted to promote the public health, safety, and welfare.
2. The broad intent of these land division regulations is to provide for alternative forms of development while assuring full compliance during the process of development with all applicable laws and regulations. Further, the intent of these regulations is to achieve the following:
   a. Better living conditions within newly developed areas.
   b. Efficient use of lands which may be economically developed.
   c. Simplification and clarity of land descriptions.
   d. Proper establishment and development of streets, utilities, and public areas.
   e. Stabilization of property values within divided lands and adjacent areas.
   f. Application of specific development standards, such as master planned developments, where necessary to implement comprehensive plan policies concerning the protection of resources or mitigation of natural hazards.

17.24.020 CONFORMITY WITH ZONING

Except as otherwise authorized herein, all land divisions shall comply with the specifications of applicable zoning district and other land use regulations of the City. Deviations from those requirements shall be allowed only through the variance procedures as specified in Section 17.12.190.

17.24.030 CLASSIFICATION OF LAND DIVISIONS

This chapter authorizes two major categories of land divisions and establishes procedures herein for City review and approval of each prior to any site preparation, tree removal, and development. Lot line adjustments which do not create a new parcel of land and which bring about parcels still in compliance with zoning district minimum area requirements are not considered to be land divisions. The two major categories of land divisions are identified as follows:

1. CONVENTIONAL SUBDIVISIONS AND PARTITIONS. Conventional subdivisions and partitions are those occurring in strict compliance with state and local regulations governing the same, including but not limited to the provisions of ORS Chapter 92 and land use and zoning regulations of the City. Major flexibility in design, densities, and land uses are not generally provided for by this category of land division. Provisions for conventional subdivisions and partitions are contained in Section 17.24.040 through 17.24.060.
2. MASTER PLANNED DEVELOPMENTS. The provisions for master planned developments provide for major flexibility in design, densities, and land uses while assuring overall compatibility with the principles and legal requirements of land divisions law. Provisions for master planned developments are contained in Sections 17.24.090 and 17.24.100.

17.24.040 APPLICATION AND APPROVAL REQUIREMENTS FOR CONVENTIONAL SUBDIVISIONS AND PARTITIONS

1. PURPOSE STATEMENT. Subdivisions and partitions are intended to provide for a permanently wholesome community environment, adequate public services, and safe streets through the accomplishment of property division and development in a traditional manner.
2. APPLICATION FOR APPROVAL OF PRELIMINARY PLANS.
    a. For any proposed subdivision or partition of land, the applicant shall file 3 copies of the preliminary plan at a scale of 1 inch equals not more than 50 feet and all required supplemental information with the City Planner, following the general application procedural requirements of Section 17.12.030. In addition, 12 reduced copies of the plan sized 11 inches by 17 inches shall be submitted.
    b. (Repealed Ord. 913, September 2, 2009)
3. PRELIMINARY PARTITION PLAN AND SUBDIVISION PLAN SUBMITTAL REQUIREMENTS. Preliminary partition or subdivision plans shall be clearly and legibly drawn. The preliminary partition or subdivision plan shall include or be accompanied by following information:
    a. Appropriate identification clearly stating the drawing is a preliminary partition or subdivision plan.
    b. North arrow , graphic scale, and date of preparation of the preliminary plan. (Amended Ord. 1017, April 18, 2018)
    c. Names and addresses of the landowners, applicant, engineer of record, surveyor, land planner, landscape architect, or any other person responsible for designing the preliminary plan. (Amended Ord. 1017, April 18, 2018)
    d. Map number (township, range, and section) and tax lot number or account of the tract being divided.
    e. The boundary lines of the tract to be divided and approximate area of the property in acres or square feet, on a plan prepared by a professional land surveyor registered with the State of Oregon.
    f. The approximate location, widths, and names of existing or platted streets or other public ways (including easements) within or adjacent to the tract, existing buildings and any addresses for the buildings, railroad rights-of-way, and other important features such as section lines and political subdivision boundary lines.
    g. The location and size of any existing sanitary sewer systems, water supply systems, culverts, drainage ways, and other storm drainage systems, and any other underground utilities or structures within and immediately adjacent the tract being divided. (Amended Ord. 1017, April 18, 2018)
    h. The approximate location, size, and use of all existing and proposed public areas or areas within the proposed subdivision or partition reserved for the common use of the property owners, a description of the suitability of the area for uses contemplated and any conditions or limitations of such reservations.
    i. A proposed general plan for collecting, treating, and detaining stormwater runoff from the development, developed in accordance with the City's Public Works Design

Standards and the Stormwater Master Plan. Preliminary Stormwater calculations shall accompany the plan showing how the proposal will meet stormwater quality and quantity requirements. (Amended Ord. 1017, April 18, 2018)

j. The proposed street pattern or layout showing the name and widths of the proposed streets and alleys in accordance with the City's Public Works Design Standards and City Transportation System Plan. (Amended Ord. 1017, April 18, 2018)

k. Existing and proposed easements, together with their dimensions, purpose, and restrictions on use.

l. Proposed location and size of sanitary sewer systems, water supply systems, stormwater facilities, and storm drainage systems in accordance with the City's Public Works Design Standards and the City's Wastewater and Water Master Plans. (Amended Ord. 1017, April 18, 2018)

m. Proposed parcels, dimensions, sizes, and boundaries. Residential parcels shall be numbered consecutively. Parcels that are to be used for other than residential purposes shall be identified with letters.

n. Predominant natural features such as water courses (including direction of their flow), wetlands, rock outcroppings, and areas subject to flooding or other natural hazards.

o. Copies of all existing or proposed restrictions or covenants affecting the property.

p. An appropriate space on the face of the plan to indicate the action of the Planning Commission, including the date of the decision.

q. An inventory of existing trees and any proposals for tree removal, detailing numbers of trees, size, and species of trees to be removed as required by Section 17.20.150.

r. A proposed plan showing access features required in Section 17.26.020, specifically Section 17.26.020.6.

s. Either a Transportation Assessment Letter or a Transportation Impact Analysis in accordance with the provisions of Section 17.26.050. Five copies of the traffic impact analysis shall be submitted.

t. A plan showing soils information and any proposed cuts or fills of more than 24 inches. (Added Ord. 1017, April 18, 2018)

u. The location and functional characteristics of any wetlands on the property to be divided as shown in the City of Stayton Local Wetlands and Riparian Inventory, July 1998. (Added Ord. 1017, April 18, 2018)

v. A statement indicating the proposed timing of installation of all proposed improvements. (Added Ord. 1017, April 18, 2018)

w. A Design Modification Request if the applicant proposes to not meet any design requirement in the Public Works Design Standards. (Added Ord. 1017, April 18, 2018)

x. Future Development Plan. Submission of a future development plan is required when it is evident that the property to be divided can be further divided or provides street or utility connections to adjacent property. The future development plan shall be submitted at the same time that the preliminary plan for either subdivision or partition is submitted and shall contain the following information:

(1) Any potential future lots (lot size shall be depicted).

(2) Existing and proposed utilities including water, sewer and storm drains.

(3) Streets and access points for potential future lots. (Added Ord. 1017, April 18, 2018)

4. ADDITIONAL SUBMITTAL REQUIREMENTS FOR PRELIMINARY SUBDIVISION PLANS. Preliminary subdivision plans shall show all information cited below in addition to submittal requirements cited above.

   a. Topography within and adjacent to the proposed subdivision. The base for such information shall be the data obtained from any official bench mark in Marion County or the City of Stayton providing its location, description, and elevation are furnished. Contour intervals shall be no greater than 2 feet for slopes of less than 10% and no greater than 5 feet for slopes of more than 10%.

   b. A vicinity map clearly showing the relationship of the proposed subdivision to surrounding developments and streets. (Amended Ord. 1017, April 18, 2018)

   c. An outline of areas proposed for partial recording of a final plat if phased recording is proposed.

   d. The plan shall otherwise conform to the requirements of ORS 92.090 as amended.

   e. If a phased development of a subdivision is proposed, then the plan shall illustrate the phases of development and a timeline for the phases.

   f. Such additional information as the applicant may have been requested to submit at any pre-application meetings with City Staff. If, upon initial investigation by the decision authority, it is found that further information is necessary, it shall be furnished by the applicant.

5. REVIEW AND APPROVAL PROCEDURES: PRELIMINARY PLAN. The decision authority shall review and act upon the preliminary subdivision or partition plan pursuant to the procedures in Sections 17.12.070 through 17.12.100 except where modifications to that procedure are indicated below.

   a. A preliminary plan shall be considered an application and shall be processed as such.

   b. In the review of a preliminary plan by the Planning Commission, the Commission shall consider the review comments of the Public Works Director and the City Engineer. Reports from the City Engineer and Public Works Director, and any comments received from local and state agencies shall be made a part of the City Planner's report.

   c. The action of the decision authority shall be noted on 2 copies of the preliminary plan, including reference to any attached documents describing conditions. One copy shall be provided to the applicant and the other shall be placed on file with the City Planner.

   d. Approval of a preliminary plan subject to this section shall be valid for a period of one year from the date of approval.

6. PRELIMINARY PLAN APPROVAL CRITERIA. In determining whether to approve a subdivision or partition preliminary plan, the decision authority shall determine that the applicant has demonstrated the following criteria and standards have been or will be met:

   a. (Repealed, Ord. 898, August 20, 2007)

   b. Adequate urban services are available to the property.

c. The proposed parcels or lots meet the minimum dimensional requirements of Section 17.16.070.2. (Ord. 1037, November 6, 2019)

d. All streets shall be in a location and have a right of way and traveled way width in accordance with the City's Transportation System Plan. Street spacing and location and block dimensions shall meet the standards of Section 17.26.020.5.c (Ord. 898, August 20, 2007; Ord. 1037, November 6, 2019)

e. The design standards of Section 17.24.050 below are satisfied as well as the access management standards in Section 17.26.020.

f. The plan complies with the provisions of the Comprehensive Plan and the zoning district(s) in which it is or will be located.

g. The subdivision or partitioning preliminary plan provides adequate access and utilities to allow future development of the remainder of the parcel and adjacent parcels. (Added Ord. 1017, April 18, 2018)

h. Multiple Access Roads: Developments of one- and two-family dwellings where the number of dwelling units exceeds 30, multiple-family residential projects having more than 100 dwelling units shall be provided with not less than two approved means of access. Exceptions may be allowed when the proposed CC&Rs for the development will require an automatic sprinkler system approved in accordance with the provisions of ORS 455.610(6). (Added Ord. 1017, April 18, 2018; Amended Ord. 1037, November 6, 2019)

i. All applicable standards of Chapter 17.20 are satisfied. (Ord. 898, August 20, 2007)

j. All applicable standards of 17.20.180 shall be met and the applicant shall obtain any necessary permits from the Department of State Lands for appropriate mitigation. (Amended Ord. 913, September 2, 2009)

k. The name of any proposed subdivision shall not be the same as or similar to any name used on a recorded plat or subdivision in Marion County, except for the use of suffixes such as "town," "place," "court," "addition," or similar generic terms, unless the land platted is contiguous to and platted by the same party that platted the subdivision bearing that name or unless the party files and records the consent of the party that platted the subdivision bearing that name. All plats must continue the block numbers of the plat of the same name last filed. A name shall not be required for a partitioning. (Amended Ord. 898, August 20, 2007)

l. The land division complies with the provisions of ORS 92.090 as amended. (Ord. 1037, November 6, 2019)

m. When any portion of a subdivision or partition is within 100 feet of the North Santiam River or Mill Creek or within 25 feet of the Salem Ditch, the land division and site development shall comply with the requirements of Sections 17.16.090.3, 17.16.090.4, and 17.20.080.2. Conditions, Covenants and Restrictions for the parcels shall assure that the vegetation maintenance standards of Section 17.20.080.2.d will be met. (Added Ord. 949, April 17, 2013; Amended Ord. 1037, November 6, 2019)

17.24.050 DESIGN STANDARDS FOR SUBDIVISION AND PARTITION PRELIMINARY PLANS

Subdivisions and partition preliminary plans shall meet the following criteria and objectives. These are broad criteria and planning objectives. Detailed engineering and design will be reviewed with the construction plans. (Amended Ord. 1017, April 18, 2018)

1. STREETS. (Ord. 898, August 20, 2007)

   a. Streets shall be in alignment with existing streets in the vicinity of the proposed subdivision, either by prolongation of existing centerlines or by connection with suitable curves. Streets shall conform to the location, alignment, and roadway design as indicated on the official map of streets known as the Future Street Plan and the Roadway Functional Classification Map in the adopted Stayton Transportation System Plan. (Amended Ord. 1017, April 18, 2018; Amended Ord. 1034, July 17, 2019)

   b. Streets should intersect at or near right angles as practicable, and in no case shall the angle of intersection exceed 120 degrees. (Ord. 898, August 20, 2007)

   c. The criteria of a and b above may be modified where the applicant can demonstrate to the decision authority that the topography, or the small number of lots involved, or any other unusual conditions justify such modification.

   d. Bikeways and pedestrian ways shall be required in accordance with the City of Stayton Transportation System Plan. (Amended Ord. 1017, April 18, 2018; Amended Ord. 1034, July 17, 2019)

   e. Concrete curbs and concrete sidewalks shall be installed on all streets, consistent with the Geometric Design Requirements by Street Functional Classification in the Public Works Design Standards. (Amended Ord. 1034, July 17, 2019)

      In residential neighborhoods, sidewalks shall be placed along the property line whenever possible. In all cases, sidewalks shall be placed 1 foot from the property line on arterial and collector streets.

2. DEDICATION OF A RIGHT-OF-WAY. If a parcel of land to be divided includes any portion of a right-of-way or street, the preliminary plan shall show where such right-of-way or street will be dedicated for the purpose or use proposed. (Ord. 898, August 20, 2007)

3. DEAD-END STREETS AND CUL-DE-SACS. When it appears necessary to continue a street into a future subdivision or adjacent acreage, streets shall be dedicated or platted to the boundary of a division without a turn-around. In all other cases, dead-end streets and cul-de-sacs shall have a turn-around with a radius of not less than 45 feet to the property line. Unless otherwise approved by the decision authority, the length of the street to the cul-de-sac bulb shall not exceed 450 feet in length.

4. RESERVE BLOCK.

   a. Reserve blocks controlling the access to public ways or which will not prove taxable for special improvements may be required by the decision authority, but will not be approved unless such strips are necessary for the protection of the public welfare or of substantial property rights, or both, and in no case unless the land comprising such strips is placed in the name of the City for disposal and dedication for street or road purposes whenever such disposal or dedication has the approval of the decision authority.

   b. In no case shall a reserve block be platted along a street that is dedicated to the required full width.

5. STREET WIDTHS.

   a. The location, width, and grade of all streets must conform to the Public Works Design Standards and City's Transportation System Plan. Where the location of a street is not shown in an approved street plan, the arrangement of streets in a development shall either provide for the continuation or appropriate projection of existing principal streets in the surrounding areas or conform to a plan for the neighborhood approved or adopted by the City to meet a particular situation where topographical or other conditions made continuance or conformance to existing streets impractical or where no plan has been previously adopted. (Amended Ord. 1017, April 18, 2018)

   b. In addition, new streets may be required to be located where the City Engineer determines that additional access is needed to relieve or avoid access deficiencies on adjacent or nearby properties. In determining the location of new streets in a development or street plan, consideration shall be given to maximizing available solar access for adjoining development sites.

   c. When an area within a subdivision is set aside for commercial uses or where probable future conditions warrant, the decision authority may require dedication of streets to a greater width than herein otherwise provided.

   d. The street right-of-way in or along the boundary of a subdivision shall have the minimum width as specified in the Public Works Design Standards. (Amended Ord. 1017, April 18, 2018)

      Temporary dead-end streets. Dead-end streets that may in the future be extended shall have a right-of-way and pavement width that will conform to the development pattern when extended.

   e. Additional Right-of-Way Widths.

      1) Where topographical requirements necessitate either cuts or fill for the proper grading of streets, additional right-of-way width may be required to allow all cut and fill slopes to be within the right-of-way.

      2) Where bikeways necessitate, additional right-of-way width may be required.

6. SUBDIVISION BLOCKS.

   a. Block lengths and widths shall be determined by giving consideration to the following factors:

      1) The distance and alignment of existing blocks and streets.

      2) Topography.

      3) Lot size.

      4) Need for and direction of the flow of through and local traffic.

   b. Block length and perimeter standards are specified in Section 17.26.020.5.c.

   c. Except where topographical or other physical features require otherwise, block widths shall not be less than 180 feet.

7. MID-BLOCK WALKS. Where topographical or other conditions make necessary blocks of unusual length, the decision authority may require the Developer to install mid-block pedestrian walks on a right-of-way 20 feet in width, which shall consist of at least 8 feet of hard surfacing throughout the block, and curb to curb, in order to provide easy access to schools,

parks, shopping centers, mass transportation stops, or other community services. (Amended Ord. 1017, April 18, 2018)

8. LOT SIZE, LOT LINES.
   a. Lot sizes shall be as specified in the zoning district in which the land division is being proposed.
   b. If topography, drainage, location, or other conditions justify, the decision authority may require greater area and frontage widths on any or all lots within a subdivision, or it may allow smaller area or front line widths if the surrounding area and other conditions justify such requirements.
   c. In a cul-de-sac, the minimum lot line fronting the turn-around shall be 40 feet, and in no case shall the lot width be less than 60 feet at the building line.
   d. Side lot lines shall be as close to right angles to the front street as practicable.
   e. Unless otherwise approved, rear lot lines shall be not less than ½ the width of the front lot lines.
   f. The subdividing or partitioning of developed property shall not create lots or parcels that are in violation of the dwelling density limitations of the underlying zone.
9. PUBLIC SURVEY MONUMENTS. Any donation land claim, corner, section corner, or other official survey monument within or on the boundary of a proposed subdivision shall be accurately referenced to at least two monuments.
10. SEWAGE DISPOSAL.
    a. All extensions of the existing City sewage facilities shall be in accordance with the Public Works Design Standards and the City's Wastewater Master Plan. Sewer mains shall be extended to the edge of the subdivision unless otherwise approved by the Public Works Director. (Amended Ord. 1017, April 18, 2018)
    b. If adequate public sewage facilities are not available to the parcel of land proposed for subdivision, or if extension of the existing City sewage facilities to serve the buildings to be constructed in the proposed subdivision does not appear practical and economically feasible because of topographic or other considerations, and if all lots in a subdivision are of proper size and soil conditions are suitable, as determined by percolator or other tests made by or approved by the health officer having jurisdiction, the City may allow individual sewage disposal facilities approved by the health officer to be installed on each lot when and as buildings are erected thereon.
11. PUBLIC USE AREAS.
    a. Subdivision and partition preliminary plans shall provide a minimum of 5% of the gross area of the subdivision or partition as public recreation area.
    b. Such public recreational area shall have access to a public street, and the decision authority may specify the location of such area to be compatible with existing or anticipated recreational development.
    c. As an alternative to subsection a. of this section, in cases where such recreational area would not be effectively used because of size or the location of the subdivision or partition, or where agreed upon by the decision authority, the developer shall pay to the City a fee, earmarked for recreational use and development.

12. WATER SUPPLY.

a. All lots shall be served from the established public water system of the City or, if permitted by the decision authority, from community or public wells, of which the water quality and system maintenance shall be in accordance with the requirements of the Oregon Health Authority and Oregon Water Resources Department. (Amended Ord. 1017, April 18, 2018)

b. In the event that larger lines are deemed necessary by the City for service to adjoining areas than what would normally be required to serve the area to be subdivided, the City and the Developer will enter into an agreement that specifies what, if any costs the City will reimburse the Developer for the oversizing. (Amended Ord. 1017, April 18, 2018)

13. UNDERGROUND UTILITIES.

a. All permanent utility service to lots in a subdivision shall be provided from underground facilities and no overhead utility service to a subdivision shall be permitted with the exception of poles used exclusively for street lighting and other equipment appurtenant to underground facilities that the utility companies have indicated in writing that there would be impractical difficulty to install underground.

17.24.060 SUBMISSION AND APPROVAL PROCEDURES FOR CONSTRUCTION PLANS

1. CONSTRUCTION PLANS SUBMITTAL REQUIREMENTS.

   a. Submittal Deadline. No later than one (1) year from the effective date of approval of the preliminary plan for a major partition or subdivision the applicant shall submit three (3) sets of construction plans to the Public Works Department. The applicant shall also submit all construction plans and other required documents to the City in electronic form. Failure to submit construction plans within one (1) year of the effective date of approval shall result in expiration of the approval. (Amended Ord. 1017, April 18, 2018)

   b. Conformance to Preliminary Plan. The construction plans shall substantially conform to the preliminary plan as approved.

   c. Preparation. All construction plans shall be prepared by a professional engineer registered with the State of Oregon.

   d. Format. Construction plans shall be clearly and legibly drawn to a standard engineer's scale in a manner which allows all detail to be easily read. The overall size of construction plans shall be 22 inches by 34 inches. Construction plans consisting of more than one sheet shall be bound or stapled on the left side. The format shall meet requirements set forth in the Public Works Design Standards. (Amended Ord. 1017, April 18, 2018)

   e. Construction Plans Information. The construction plans shall be drawn in accordance with and contain the information specified in the Public Works Design Standards. (Amended Ord. 1017, April 18, 2018)

2. REVIEW AND APPROVAL OF CONSTRUCTION PLANS.

   a. Approval of construction plans shall be a routine administrative action.

   b. The Public Works Department shall issue a written acknowledgement indicating the date the construction plans and other required documents were received by the City. (Amended Ord. 1017, April 18, 2018)

   c. The Public Works Director shall forward the construction plans and other required documents to the City Engineer for review and approval. (Amended Ord. 1017, April 18, 2018)

   d. Within 14 days of submittal of the construction plans and other required documents, the City Engineer shall determine if the submittal is complete. If the City Engineer determines the submittal is incomplete, the applicant shall be notified in writing of the additional information that must be submitted in order for the Public Works Director to initiate City review of the submittal. Failure of the applicant to provide a complete application within 181 days of the original submission shall result in the construction plans and other required documents being considered withdrawn. City staff shall notify the applicant that the application is considered withdrawn. (Amended Ord. 1017, April 18, 2018)

   e. Within 21 days of determining the submittal is complete, the City Engineer shall determine whether the construction plans and other required documents are in general conformance with the requirements of this Title, Title 12, the Public Works Design Standard, and any conditions of approval. (Amended Ord. 1017, April 18, 2018)

   f. If any portion of the construction plans and other required documents are not in conformance with the required Public Works Standards, the applicant shall be informed in

writing of the necessary changes to bring them into conformity. (Amended Ord. 1017, April 18, 2018)

g. Once the City Engineer has determined that the construction plans and other required documents generally conform to the Public Works Standards, the City Engineer shall notify the engineer of record who prepared the plans in writing that a specified number of copies of the approved plans to be provided for City Engineer approval. (Amended Ord. 1017, April 18, 2018)

h. Upon City Engineer approval of the construction plans, the applicant shall obtain all necessary agency approvals and shall obtain all necessary permits prior to commencement of construction. Design and construction activities shall be in accordance with the requirements set forth in the Public Works Standards. (Amended Ord. 1017, April 18, 2018)

17.24.070 DESIGN STANDARDS FOR CONSTRUCTION PLANS

1. STREET IMPROVEMENTS, SIDEWALKS, UNDERGROUND UTILITIES, AND SURFACE DRAINAGE.

   a. All street improvements, including pavement, curbs, sidewalks, underground utilities, and surface drainage shall be in accordance with the requirements set forth in the Public Works Standards. (Amended Ord. 1017, April 18, 2018)

   b. All utilities and public agencies shall be made aware of the street construction so that every chance is provided to install conduit where the actual placement of lines is not practical and to advise them of penalties for street excavation during the first 5 years after construction.

   c. Construction plans involving public improvements shall not receive approval until such time as the City Engineer is satisfied that the following street improvements will be completed in accordance with the Public Works Standards. (Amended Ord. 1017, April 18, 2018)

2. SEWAGE DISPOSAL. Construction plans shall not receive approval until such time as the City Engineer is satisfied that the sewage disposal facilities will be completed in accordance with the Public Works Standards. (Amended Ord. 1017, April 18, 2018)

   a. In the event that larger lines are deemed necessary by the Public Works Director for service to adjoining areas than what would normally be required to serve the entire area to be subdivided, the City and the Developer will enter into an agreement that specifies what, if any costs the City will reimburse the Developer for the oversizing. (Amended Ord. 1017, April 18, 2018)

3. WATER INSTALLATION. The applicant shall install the complete water system for such portion of the area as is being platted, including mains, hydrants, service stubs, and meter boxes. Such installation shall comply with the Public Works Standards and those imposed by any state or federal authority. Water mains shall be extended to the edge of the subdivision unless approved otherwise by the Public Works Director. (Amended Ord. 1017, April 18, 2018)

4. UNDERGROUND UTILITIES.

   a. The construction plans shall include written evidence that the applicant has made necessary arrangements with utility companies and other persons or corporations affected by the installation of underground utility lines and facilities. Easements for utility facilities shall be provided by the applicant as set forth on the approved preliminary plan. In the case of a partition, a utility easement document may be required for recording by the City.

   b. The applicant shall obtain all necessary permits for the placement of all underground utilities prior to the start of construction.

5. RADIUS AT STREET INTERSECTIONS.

   a. The property line radius at street intersections shall meet the design requirements set forth in the Public Works Design Standards. (Amended Ord. 1017, April 18, 2018)

6. STREET GRADES. Street grade shall meet the design requirements set forth in the Public Works Design Standards. (Amended Ord. 1017, April 18, 2018)

7. STREET TREES. The construction plans shall include a plan for street trees to be planted in the parking strip behind the curb line in accordance with the Public Works Design Standards. (Amended Ord. 1017, April 18, 2018)

17.24.080 SUBDIVISION AND PARTITION FINAL PLATS

1. FINAL PARTITION PLAT SUBMITTAL REQUIREMENTS

   a. Conformance to Preliminary Plan. The plat shall substantially conform to the preliminary plan as approved.

   b. Submittal Deadline. If a partitioning does not involve the construction of a street, the final plat shall be submitted no later than one year from the date of approval of the preliminary plan by the Planning Commission. Otherwise, final plat shall be submitted following substantial completion of construction of the public improvements, but no later than two years from the date of approval of the construction plans. Failure to submit a final plat within two years of approval of the construction plans shall result in expiration of the approval of the partition. (Amended Ord. 1017, April 18, 2018)

   c. Preparation. All final plats for partitions shall be prepared by a professional land surveyor registered with the State of Oregon.

   d. Format. All plats shall be prepared in accordance with the Marion County Surveyor's Map Standards. (Amended Ord. 1017, April 18, 2018)

   e. All easements provided for public services, utilities, access, or any type must be shown on the face of the plat along with the recorder's number if filed for record. If the easement is not recorded, a copy of the executed easement document capable of being reproduced must be provided to the City.

   f. A line for the approval signature of the City Administrator or his designee, and the date and any other lines which show approvals required by the City shall be placed on the plat.

2. FINAL SUBDIVISION PLAT SUBMITTAL REQUIREMENTS

   a. Submittal Deadline. The final plat shall be submitted no later than two years from the date of approval of the construction plans. Failure to submit a final plat within two years from the date of approval of the construction plans shall result in expiration of the approval of the subdivision. (Amended Ord. 1017, April 18, 2018)

   b. Preparation. All plats shall be prepared by a licensed land surveyor registered with the State of Oregon.

   c. Format. All plats shall be prepared in accordance with the Marion County Surveyor's Maps Standards. (Amended Ord. 1017, April 18, 2018)

   d. In the event the applicant plans to utilize the provisions of ORS 92.060 as pertains to "Delayed Monumentation," the applicant shall notify the Marion County Surveyor and Planning Department and report said fact on the final plat. (Amended Ord. 1017, April 18, 2018)

   e. Accompanying Materials. The plat shall be accompanied by the following:

      1) An exact reproducible transparency which complies with the requirements of subsection 17.24.040.7.c.

      2) A title report issued by a title insurance company verifying ownership of all property that is to be dedicated to the public.

      3) A subdivision guarantee report issued by a title insurance company in the name of the owner(s) of the land, showing all parties whose consent is necessary for the division and

their interest in the premises and all encumbrances, covenants, and other restrictions pertaining to the subject property. (Amended Ord. 1017, April 18, 2018)

4) A copy of all documents relating to establishment and maintenance of private facilities including the final development plan as approved, concurrent with the conditions, covenants, and restrictions.

5) A copy of any documents relating to special notice, requirement, or restriction required by the City as a condition of approval.

3. APPROVAL PROCEDURES AND CRITERIA FOR FINAL PARTITION PLATS AND SUBDIVISION PLATS.

a. Procedure. Approval of final partition plans shall be routine administrative actions.

b. Approval Criteria. The City Planner shall recommend to the City Administrator that the final partition or subdivision plat be approved only if the following criteria are found to be satisfied:

1) The Public Works Director has determined the construction of the public improvements is substantially complete. (Amended Ord. 1017, April 18, 2018)

2) The final plat and any supporting documents are in substantial conformity with the approved preliminary plan. Changes from the approved preliminary plan may be approved when the City Planner finds that they are minor modifications.

3) Any conditions imposed by the decision authority have been satisfied and/or assured through bonding agreement(s).

c. Approval. Final partition and subdivision plats shall be considered approved when the administrator's signature and dates thereof have been written on the face of the plats and the plats have been recorded.

d. Notice. Approval or denial of a final partition or subdivision plat shall be in writing to the applicant or the applicant's representative.

e. Staff approval of a final partition or subdivision plat is the final decision of the City, and is not a land use decision or a limited land use decision as defined in ORS 197.015.

f. Financial performance guarantees shall be required for public improvements that have not been constructed by the applicant and inspected and approved by the City in accordance with Section 17.20.120. (Amended Ord. 1017, April 18, 2018)

g. The final plat, along with any conditions, covenants and restrictions, and development plan shall be recorded within 30 days of final plat approval. Within 45 days of final plat approval, applicant shall submit to the City Planner a copy of the final plat with the recording number referenced on the final plat.

4. PHASED DEVELOPMENT. An applicant may choose to phase the development of a subdivision by submittal of a final plat that contains only a portion of the approved preliminary plan. The final plat of the first phase must be submitted to the City Planner within 3 years of the date of preliminary plan approval, and must be accompanied by a drawing that shows all of the subsequent phases of development. A final plat for each subsequent phase must be filed within 2 years of the submission of the final plat for the previous phase. Failure to submit a final plat for a phase of the subdivision within 2 years of the submission of the final plat for the previous phase shall result in expiration of the preliminary approval for the unplatted portions.

Prior to approval of the final plat of any phase, the applicant shall demonstrate to the City Planner that each phase of the subdivision would be substantially and functionally self-contained and self-sustaining with regard to access, utilities, open spaces, and similar physical features; and be capable of substantial occupancy, operation, and maintenance should the subsequent phases of the subdivision not be developed.

5. COPIES OF RECORDED PLATS TO BE FURNISHED. The final plat shall be recorded pursuant to ORS 92.120. Within 15 days after the recording of a plat with Marion County, the applicant or his representative shall furnish the City 3 prints from the reproduction of the recorded plat.
6. EXCEPTIONS TO SUBDIVISION REGULATIONS. If an applicant requests that any of the requirements set forth in these regulations be waived, the Planning Commission shall be the decision-authority. (Amended Ord. 1017, April 18, 2018)

17.24.090 APPLICATION AND APPROVAL REQUIREMENTS FOR MASTER PLANNED DEVELOPMENTS (Amended Ord. 910, June 3, 2009)

1. PURPOSE STATEMENT. The purpose of a Master Planned Development is to allow flexibility in design and creative site planning for residential, commercial or industrial development consistent with the following objectives: encourage creative and efficient uses of the land, provide and ensure preservation and enhancement of open space, ensure that the project design integrates all adopted Facility Master Plans (Transportation, Water, Sewer, Parks, Facilities, etc.), Standard Specifications, and provides an attractive living and working environment.
2. APPLICABILITY. The Master Planned Development designation may be applied in any zoning district. An applicant may elect to develop a project as a Master Planned Development in compliance with the requirements of this Section. However, the City shall require that the following types of development be processed using the provisions of this Section:
    a. Where a land division and associated development is to occur on a parcel or site containing wetland(s) identified in the City of Stayton Local Wetlands and Riparian Inventory or by Department of State Lands as a significant wetland.
    b. Where the land division is to occur on slopes of 15% slope or greater.
    c. Where Comprehensive Plan policies require any development in the area to occur as a Master Planned Development. (Amended Ord. 949, April 17, 2013)
3. APPLICATION AND INFORMATION REQUIREMENTS FOR CONCEPTUAL APPROVAL OF A MASTER PLANNED DEVELOPMENT. The application and submission requirements for a conceptual master planned development plan shall include:
    a. Three copies of the conceptual plan at a scale of 1 inch equals not more than 50 feet including the general location of: streets, open space, residential development identified by type, and any commercial development including potential uses. In addition, 10 copies of the conceptual plan reduced to fit on an 11 X 17 page shall be submitted.
    b. A statement of planning objectives to be achieved by the planned development through the particular approach proposed by the applicant. This statement should include a description of the character of the proposed development such as the number of types of residential units, the range of lot sizes, and the size and scale of any non-residential uses. The statement shall also include a discussion of the rationale behind the assumptions and choices made by the applicant.
    c. A development schedule indicating the approximate dates when construction of the planned development and its various phases are expected to be initiated and completed.
    d. A statement of the applicant's intentions with regard to the future selling or leasing of all or portions of the planned development.
    e. Existing Conditions map. At a minimum, the existing conditions map shall show the applicant's entire property and the surrounding property to a distance of 300 feet to determine the location of the development in the City, and the relationship between the proposed development site and adjacent property and development. The property boundaries, dimensions and gross area shall be identified by:

1) The location and width of all streets drives, sidewalks, pathways, rights-of-way and easements on the site and adjoining the site.
2) Potential natural hazard areas, including any areas identified as subject to a 100-year flood, areas subject to high water table, and areas mapped by the City, County, or State as having a potential for geologic hazards.
3) Resource areas, including wetland areas, streams, and wildlife habitat identified by the City or any natural resource regulatory agencies requiring protection.
4) Site features including existing structures, pavement, large rock outcroppings, areas having unique views, and drainage ways, canals and ditches.
5) Locally or federally designated historic and cultural resources on the site and adjacent parcels or lots.
6) The location, size and species of isolated trees and other vegetation having a diameter of 6 inches or greater at 4 feet above grade. The map shall also show the general location of groves of trees larger than 3,000 square feet and indicate the location of any specimen trees to be preserved in the development process in accordance with Section 17.20.150.
7) Location and impact on any facilities in the adopted Water, Sewer, Transportation, Storm Drainage, and Parks Master Plans

(Amended Ord. 910, June 3, 2009)

4. PROFESSIONAL DESIGN TEAM. A professional design team shall be required for all Master Planned Developments. The applicant must certify, in writing, that the following professionals will be involved in the preparation of the concept and detailed plan.
   a. A licensed architect or professional designer.
   b. A registered professional engineer
   c. A landscape architect or landscape designer.

(Enacted Ord. 910, June 3, 2009)

5. CONCEPT PLAN APPROVAL CRITERIA. The decision authority shall review the concept plan and make findings and conclusions as to compliance with the following criteria. The decision authority may approve the concept plan with conditions of approval necessary to assure that the proposed development meets the following standards.
   a. All relevant provisions of the Comprehensive Plan are met.
   b. The proposed Master Planned Development will be reasonably compatible with the surrounding neighborhood.
   c. There are special physical or geographic conditions or objectives of development which warrant a departure from the standard ordinance requirements.
   d. If there are proposed uses that are not allowed in the underlying zone, those uses shall be compatible with the proposed development and the surrounding neighborhoods and viable in that location.

(Amended Ord. 910, June 3, 2009)

6. TIMELINE FOR FILING A DETAILED MASTER PLAN: Within one year after the date of approval of the concept plan, the applicant shall prepare and file with the City Planner a detailed development plan in conformance with subsections 6 and 7 of this Section.

   a. Extension. If deemed necessary by the decision authority, a 6-month extension to the one-year period may be made by written request of the applicant, submitted to the City Planner prior to the expiration of the 1-year deadline from approval provided:

      1) The applicant can show intent of applying for detailed development plan review within the 6-month extension period.

      2) There have been no changes to the applicable Comprehensive Plan policies and Code provisions on which the approval was based.

(Enacted Ord. 910, June 3, 2009)

7. APPLICATION AND INFORMATION REQUIREMENTS FOR DETAILED APPROVAL OF A MASTER PLANNED DEVELOPMENT.

   a. The application and submission requirements for a detailed master planned development plan shall be the same as in Sections 17.24.040.2, 040.3, and 040.4. In addition, the detailed plan shall include:

   b. A narrative documenting compliance with the all applicable approval criteria contained in Section 17.24.100.

   c. Special studies prepared by qualified professionals (licensed engineers, architects, planners, etc.) may be required by the City Planner, Public Works Director, City Engineer, Planning Commission or City Council to determine potential geologic, noise, environmental, natural resource, and other impacts and required mitigation.

   d. Detailed site plan, including:

      1) Lot configuration and identification of proposed uses

      2) Residential density (by phase, if a phased project) expressed in dwelling units per acre of land for each type of residential development and for the entire development.

      3) Circulation plan including all rights-of-way for streets, parking areas and pedestrian and bicycle facilities and their connections to existing or proposed off-site facilities.

      4) Open space plan including:

         a) Location and dimensions of all areas to be conveyed, dedicated, or reserved as common open spaces, trails, public parks, recreational areas, and similar public, semi public areas and uses.

         b) Design of trails or open space areas including proposed landscaping.

         c) Design of any structures such as playgrounds, sports facilities, and park shelters.

      5) Location of all potential fences including proposed materials and transparency.

      6) Lighting plan meeting the requirements of Section 17.20.170

      7) Landscaping plan meeting the requirements of Section 17.20.090

      8) Grading concept (for hillside or sloping properties or where extensive grading is anticipated)

      9) Architectural plan including:

a) Narrative description of proposed building styles for all residential, commercial or other structures.

b) Building footprints

c) Proposed Codes, Covenants & Restrictions for all residential lots that meet the applicable requirements of Sections 17.20.190, 17.20.200 and 17.24.100.

d) Typical elevations of each type of proposed structure sufficient to describe architectural styles drawn to scale and including building dimensions.

10) Sign plan that includes size, style, and location of any proposed signs.

(Amended Ord. 910, June 3, 2009)

8. DETAILED DEVELOPMENT PLAN APPROVAL CRITERIA. The decision authority shall approve the detailed development plan upon finding that the detailed development plan conforms to the concept plan and the conditions of its approval. Minor changes to the approved concept plan may be approved with the detailed plan when the approval body finds that the modification(s) are consistent with the criteria below.

a. The detailed development plan shall meet all applicable approval criteria of Sections 17.12.220, 17.24.050, 17.24.100, and Chapter 17.26.

b. If a phased development, each phase shall be:

1) Substantially and functionally self-contained and self-sustaining with regard to access, parking, utilities, open spaces, and similar physical features; capable of substantial occupancy, operation, and maintenance upon completion of construction and development.

2) Arranged to avoid conflicts between higher and lower density development.

3) Properly related to other services of the community as a whole and to those facilities and services yet to be provided.

4) Provided with such temporary or permanent transitional features, buffers, or protective areas as may be required to prevent damage or detriment to any completed phases and to adjoining properties not in the Master Planned Development.

(Amended Ord. 910, June 3, 2009)

17.24.100 MASTER PLANNED DEVELOPMENT DESIGN STANDARDS (Amended Ord. 910, June 3, 2009)

Master Planned Developments shall be subject to the following design criteria and objectives.

1. REGULATIONS THAT MAY BE MODIFIED. The site development standards of this Title shall apply to a Master Planned Development except the following which may be modified if the design standards of subsection 2 are met.
   a. Minimum lot area, width, frontage, setbacks, and height.
   b. Minimum parking requirements.
   c. Use of back lots in a subdivision.
   d. Block length, street layout, street width.

(Amended Ord. 910, June 3, 2009)

2. DESIGN STANDARDS. In addition to the applicable design standards of Sections 17.20.190, 17.20.200, 17.20.220, and 17.20.230, the following design standards shall be met by Master Planned Developments.
   a. Design Consistency: All structures, commercial, multi-family dwellings, single family dwellings, open space facilities shall have consistency in design through the use of similar design features such as but not limited to architectural details, lighting fixtures, and exterior finishes.
      1) This criterion does not require the development to conform to one specific architectural "style" such as Arts & Crafts, or Colonial, but it shall require continuity of design for all structures in the development.
      2) The design chosen by the developer shall be specified in the approval documents and the Codes, Covenants & Restrictions (CCRs) of the development and/or a specific set of standards approved as part of the detailed master plan. The design standards shall be enforced by the City throughout the development and permitting process and shall be enforceable by any homeowners owners association and individual lot owners through the CCRs.
   b. Design for Detached Single Family Dwellings. The detailed design plan for any portion of the master planned development that includes detached single family dwellings shall meet the following standards:
      1) A minimum of fifteen percent of each lot shall be landscaped.
      2) Recreational vehicle storage in the front yard shall be prohibited.
      3) Graveled/paved parking areas in the front yard outside of the driveway shall be prohibited.
      4) At least four of the following design features shall be included on the sides of a building facing a street, public right of way or open space.
         a) Dormers or gables
         b) Cupolas
         c) Bay or bow windows

d) Exterior shutters

e) Recessed entries

f) Covered porch entries or porticos

g) Front porch of at least 100 square feet

h) Covered or uncovered balconies

i) Pillars or posts

j) Eaves with a minimum 18 inch projection

k) Exterior brick work or masonry on a minimum of 15% of the façade, not including the area of doors and windows.

5) All buildings sides facing a street, public right of way or open space shall have a minimum of 15% in windows or doors with glazing.

6) A break in wall plane of at least 16 inches every 30 feet.

7) Offsets or breaks in roof elevation of at least 2 feet every 30 feet.

c. Fences.

1) There shall be no fences in the front yard of residential structures

2) If a lot adjoins an open space, trail or water way, any fence not located in the front yard or between two structures must be 50% open and no more than 4 feet in height. Alternately, a solid fence of not more than 6 feet in height may be allowed in rear yards for privacy if an additional 10 feet of public open space is added between any trails, waterways or common open space and the fence and that area is landscaped to buffer and conceal the fence.

d. Open Space: Master Planned Developments shall contain a minimum of 25% open space, except in the downtown zones, where the open space requirement shall be 10%. Open space includes all areas not in a street right-of-way that are publicly dedicated or under common ownership.

1) If the development is adjacent to the shorelines of the North Santiam River, Mill Creek, the Stayton Ditch, or the Salem Ditch a useable portion of the shoreline and reasonable public access to it shall be part of the open space and the open space requirement shall be reduced to 20%.

2) The decision authority may waive or reduce the requirement for open space when the master planned development is adjacent to and provides access to a public park or other off-site open spaces.

3) The open space area shall be shown on the detailed plan and recorded with the final plat.

4) The open space shall be conveyed in accordance with one of the following methods:

a) At the sole discretion of the City Council, open space may be dedicated to the City as publicly owned and maintained open space. Open space proposed for dedication to the City must be acceptable to the City Planner and Public Works Director with regard to the size, shape, location, improvement, environmental condition, and budgetary and maintenance abilities.

b) By conveying title to a nonprofit corporation, lot-owners association or other legal entity, with a conservation easement deeded to the City. The terms of such lease or other instrument of conveyance must include provisions for maintenance suitable to the decision authority, with advice from the City Planner, Public Works Director, and City Attorney.

5) Whenever any privately owned open space areas, recreation facilities, community buildings or other facilities are provided, an association of owners shall be created under state law. Owners within the development shall automatically be members and shall be assessed levies for maintenance of the facilities.

6) Areas identified as open space shall preserve important natural features such as wetlands, hillsides or historical features and integrate them into the development design. If the development abuts wetlands, the wetlands and an area around their perimeter shall be included in the open space.

7) Pedestrian trails shall provide connectivity within the development and to the adjacent area and meet the requirements of the adopted Trails Master Plan.

a) Any pedestrian paths shall be public.

b) Paths with hard surface shall be a minimum of 10 feet in width centered within a 20-foot wide right of way or easement.

c) Paths with soft surface shall be a minimum of 6 feet in width generally centered within a 16-foot wide right of way or easement.

d) Paths shall have a minimum average illumination level of 1.0 foot candles.

i. If the path is a sidewalk or adjacent to an open space with lighting such as a park or playground, this standard may be met if the surrounding lighting can meet the standard.

ii. If there is no surrounding lighting, the path shall be provided with continuous pedestrian scale lighting that meets this standard.

8) A minimum of 10% of the open space shall include amenities such as but not limited to: plazas, playgrounds, picnic areas, park shelters, indoor or outdoor recreation facilities, and community buildings.

e. Streets.

The detailed development plan may provide for streets that are narrower than those typically required in a subdivision.

1) Street right of way width may be reduced to 50 feet if:

a) All lots and buildings that front on that portion of the street are accessed by alleys, with no driveway entrances onto that portion of the street which is reduced in width.

b) On-street parking is restricted to only one side of the street.

c) The street layout pattern preserves connectivity and intersection design that meets the standards of Title 12 and intent of the Transportation Master Plan.

e) If there are one-way loops provided to serve residential developments.

2) If there are long blocks in the design, additional pedestrian connectivity will be required

3) Approval of street designs shall be required from the Public Works Director after consultation with the Fire Chief.

f. Parking.

Common parking areas shall meet the landscaping standards of Section 17.20.060. The total number of required parking spaces may be reduced by up to 15% if:

1) The parking area has pedestrian facilities that are connected to city's pedestrian trail system.

2) The required number of bicycle parking spaces is increased by 25% and provided with a covered parking area.

3) Additional parking spaces can be provided in parking areas within 500 feet with pedestrian connectivity or on-street parking is available.

4) The area meets the joint use standards of Section 17.20.060.6.

g. Density.

1) When calculating the density for a Master Planned Development, the density may be averaged across the development to meet the density criteria, allowing a clustering of development and preservation of open space. If a development is located in more than one zone, the maximum number of dwelling units shall be calculated by determining the number of units permitted in those portions of the development in each zone. Dwelling units may be provided in any mix of attached or detached single family, duplex, triplex, or multifamily dwellings. (Amended Ord. 902, May 7, 2008)

2) Residential density bonuses may be granted when one or more of the following criteria are met, up to a 50% increase in density.

a) Where the percentage of open space increases. The bonus shall permit a 5% increase in the maximum dwelling density for each percentage point increase of open space above the minimum required in Section 17.24.100.3.d.

b) When the decision authority determines that the architectural standards proposed for the development exceed the applicable design standards of Sections 17.20.190, 17.20.200 and subsection 2.b through quality, distinctive and innovative design, and use of architectural amenities, such as locating garages behind the primary building line of the house, side loaded garages, or alley-access garages, a density bonus of up to 20% may be granted. (Amended Ord. 949, April 17, 2013)

c) Up to a 15% density increase may be granted by the decision authority if the development exceeds the standards of subsection 2.d.8.

d) Up to a 15% density increase may be granted by the decision authority if open space amenities such as those identified in subsection 2.d.8 are open to the public.

(Amended Ord. 910, June 3, 2009)

17.24.110 ENFORCEMENT

1. Enforcement of this chapter shall be as specified in Chapter 17.04.190.
2. Where the City deems it necessary, the applicant shall insure that the provisions of this title are followed, and will, if required by the City:
   a. Furnish proof of financial performance, pursuant to the provisions of Section 17.20.120 to insure that the development or project will be carried out in accordance with the approved specifications.
   b. Agree that where the applicant does not conform to specifications of this title or will not conform to the City's ruling, then the City may enter the premises, expending such money and labor as necessary to make such specifications conform, and any such expense shall constitute a lien upon the improvements as improved.
   c. Make any other agreement that the City would approve between the City and the applicant.

CHAPTER 17.26
TRANSPORTATION REQUIREMENTS

Adopted Ord. 894, January 2, 2007
Amended Ord. 898, August 20, 2007
Amended Ord. 913, September 2, 2009
Amended Ord. 920, May 3, 2010
Amended Ord. 1034, July 17, 2019

CHAPTER 17.26

TRANSPORTATION REQUIREMENTS

SECTIONS

17.26.010 PURPOSE AND INTENT

The purpose of this chapter is to implement the findings of the City of Stayton Transportation System Plan through a series of transportation standards, practices, and requirements. These transportation standards, practices, and requirements apply mostly to new developments and redevelopments. However, they may also apply in the development of transportation infrastructure unrelated to land development. The transportation standards, practices, and requirements in this chapter encompass access management requirements and standards; bicycle parking and bicycle circulation and access; transportation development charge; traffic impact study requirements, and a method for reviewing transportation improvement projects not identified in the Stayton Transportation System Plan.

17.26.020 ACCESS MANAGEMENT REQUIREMENTS AND STANDARDS

INTENT AND PURPOSE.

This section of the land use and development code identifies who is subject to apply for an access permit, how the number of accesses are determined, where the access(es) may be located, access standards that must be met, and development review procedure and submittal requirements in relation to access management.

1. ACTIONS REQUIRING ACCESS PERMITS AND AUTHORITY TO GRANT ACCESS PERMITS.

   a. Projects Requiring Access Permits.

      Access permits are required for all projects requiring any type of permitting from the City of Stayton that result in additional trip generation or change in use. A change in use is defined as a change in tenant, a change in land use, an expansion of an existing use, or remodel of an existing use those results in increased traffic.

   b. Access Permits onto City Streets.

      Permits for access onto city streets shall be subject to review and approval by the Public Works Director and/or his/her designee. The criteria for granting access permits shall be based on the standards contained in this section. The access permit may be granted in the form of a "City of Stayton access permit" or it may be attached to a land use decision notice as a condition of approval.

   c. State Highway Access Permits.

      Permits for access onto State highways shall be subject to review and approval by Oregon Department of Transportation (ODOT), except when ODOT has delegated this responsibility to the City of Stayton or Marion County. In that case, the City of Stayton and/or Marion County shall determine whether access is granted based on ODOT's adopted standards.

   d. Marion County Roadway Access Permits.

      Permits for access onto Marion County roadways shall be subject to review and approval by Marion County, except where the county has delegated this responsibility to the City of Stayton, in which case the City of Stayton shall determine whether access is granted based on adopted City of Stayton standards.

   e. Conditions of Approval with Granting of Access Permit.

      The City of Stayton or other agencies with access permit jurisdiction may require the closing or consolidation of existing curb cuts or other vehicle access points, recording of reciprocal access easements (i.e. for shared driveways), development of a frontage street, installation of traffic control devices, and/or other mitigation as a condition of granting an access permit, to ensure the safe and efficient operation of the street system.

   f. Non-Conforming Access Features.

      Legal access connections in place as of the effective date of this section that do not conform with the standards herein are considered nonconforming features and shall be brought into compliance with applicable standards under the following conditions:

      1) Change in use as defined in 17.26.020.1.a.

2) When new access connection permits are requested or required.

g. City's Authority to Change Accesses.

The City of Stayton has the authority to change accesses for all uses if it is constructing a capital improvement project along that section of the public street. The access changes shall meet all current standards. If it is not possible to change a particular access to meet all the current standards, then a non-conforming access shall be acceptable only if it improves the condition to more closely meet the current standards.

2. NUMBER OF ALLOWED ACCESSES.

a. Number of Allowed Accesses for Single-Family Residential Lots.

A single-family residential lot may request up to two driveways on a local street. A single-family residential lot may have only one driveway on any other classification of street. If two residential driveways are requested from a single-family lot, then it shall be subject to spacing standards of 17.26.020.3.b. (Ord. 898, August 20, 2007)

b. Number of Allowed Accesses for Multi-Family Uses.

The number of driveways allowed for multi-family residential uses shall be based on the daily trip generation of the site in question. One driveway shall be allowed for up to 1,000 daily trips generated. A maximum of two accesses shall be allowed if it is proven through a traffic impact study that this limitation creates a significant traffic operations hardship for on-site traffic. The Public Works Director or his/her designee shall determine whether the traffic study adequately proves a significant traffic operations hardship to justify more accesses. Emergency access requirements shall be determined by the fire marshal and/or the Public Works Director or his/her designee. Each driveway/access shall meet the spacing standards defined in 17.26.020.3.h.

c. Number of Allowed Accesses for Non-Residential Uses.

The number of driveways allowed for non-residential uses shall be based on the daily trip generation of the site in question. One driveway shall be allowed for up to 2,500 daily trips generated with a maximum of two driveways. An exception shall be allowed if it is proven through a traffic impact study that this limitation creates a significant traffic operations hardship for on-site traffic. The primary criteria to allow more driveways will be level of service (see standards in 17.26.050) analysis, queuing analysis, and safety analysis of the site accesses. If a development has a need for more than two access points, then signalization of the main access shall be investigated as a potential option prior to allowing additional driveways. A signal warrant study will then be required to study whether or not signalization of the main access is required. The Public Works Director or his/her designee shall determine whether the traffic study adequately proves that more accesses are needed for a particular project.

3. LOCATION OF ACCESSES.

Vehicle access locations shall be provided based on the following criteria:

a. Corner Lot Access.

Corner lot driveways on local streets shall be a minimum of 50 feet from the intersecting property lines or in the case where this is impractical, the driveway shall be located 5 feet from the property line away from the intersection or as a joint use driveway at this property line. Corner lots on arterial or collector streets shall have driveways located on the minor

cross street. If this is not feasible, then the corner lot driveway on an arterial or collector street must follow the minimum access spacing standard in Table 17.26.020.3.h. or in the case where this is impractical, the driveway shall be located 5 feet from the property line away from the intersection or as a joint use driveway at this property line. (Ord. 898, August 20, 2007)

b. Two Single-Family Residential Driveway Spacing for One Lot.

Where driveways are permitted for one single-family residential lot, a minimum separation of 50 feet shall be required. The 50-foot separation shall be measured from the perpendicular near edge to perpendicular near edge.

c. Access onto Lowest Functional Classification Roadway Requirement.

Access shall be provided from the lowest functional classification roadway. If a tax lot has access to both an arterial and a lower classified roadway, then the arterial driveway shall be closed and access shall be granted along the lower functional classification roadway. This shall also apply for a series of non-residential contiguous tax lots under the same ownership or control of a development entity per the requirements set for in 17.26.020.5.a.5.

d. Conditional Access Permits.

Conditional access permits may be given to developments that cannot meet current access spacing and access management standards as long as other standards such as sight distance and other geometric standards can be met. In conjunction with the conditional access permit, crossover easements shall be provided on all compatible parcels without topography and land use conflicts. The conditional access permit shall allow temporary access until it is possible to consolidate and share access points in such a manner to either improve toward the current standards or to meet the current access spacing standards. Figure 17.26.020.3.d illustrates the concept of how the crossover easements eventually work toward meeting access spacing standards.

e. Shared Driveway Requirement for Adjacent Non-Residential Parcels with Non-Conforming Access(es).

Adjacent non-residential parcels with non-conforming access(es) shall be required to share driveways along arterial, minor arterial, and collector roadways pursuant to 17.26.020.1 which defines when the requirement is triggered. If the adjacent use refuses to allow for a shared driveway, then a conditional access permit may be given. As a condition of approval, cross-easements shall be granted to the adjacent non-residential parcel to secure a shared driveway later when the adjacent parcel redevelops, seeks to obtain an access permit, or becomes available.

f. Residential Subdivision Access Requirements.

Residential subdivisions fronting an arterial, minor arterial, or collector street shall be required to provide access from secondary local streets for access to individual lots. When secondary local streets cannot be constructed due to topographic or physical constraints, access shall be provided by consolidating driveways per the requirements set for in 17.26.020.3.d. In this situation, the residential subdivision shall still meet driveway spacing requirements of the arterial or collector street. (Ord. 898, August 20, 2007)

Figure 17.26.020.3.d
Example of Crossover Easement and Conditional Access Policy

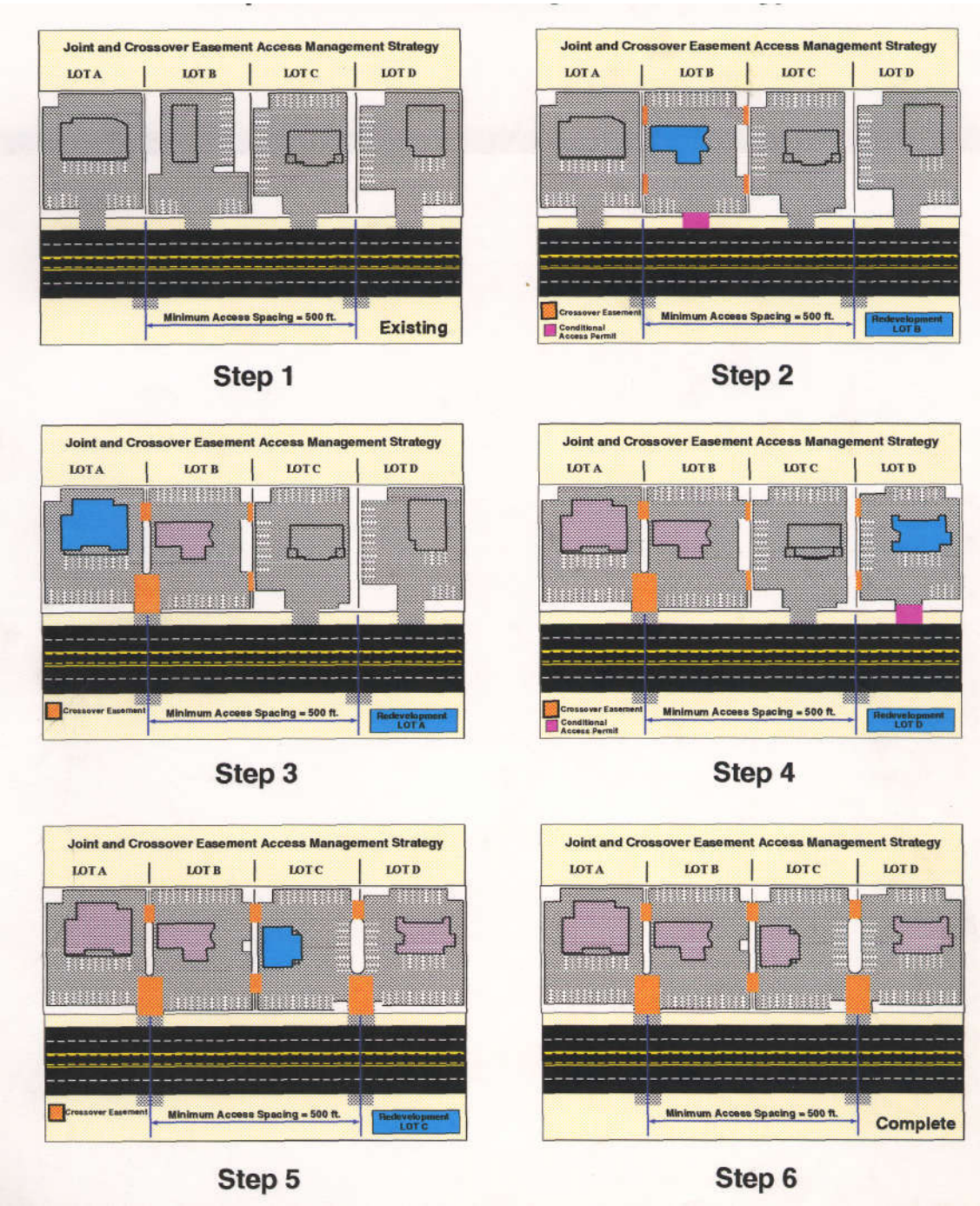


Figure 17.26.020.3.d, continued
Example of Crossover Easement and Conditional Access Policy

Step	Process
1	EXISTING – Currently Lots A, B, C, and D have site-access driveways that neither meet the access spacing criteria of 500 feet nor align with driveways or access points on the opposite side of the highway. Under these conditions motorists are put into situations of potential conflict (conflicting left turns) with opposing traffic. Additionally, the number of side-street (or site-access driveway) intersections decreases the operation and safety of the highway
2	REDEVELOPMENT OF LOT B – At the time that Lot B redevelops, the local jurisdiction would review the proposed site plan and make recommendations to ensure that the site could promote future crossover or consolidated access. Next, the local jurisdiction would issue conditional permits for the development to provide crossover easements with Lots A and C, and ODOT would grant a conditional access permit to the lot. After evaluating the land use action, ODOT would determine that LOT B does not have either alternative access, nor can an access point be aligned with an opposing access point, nor can the available lot frontage provide an access point that meets the access spacing criteria set forth for this segment of highway.
3	REDEVELOPMENT OF LOT A – At the time Lot A redevelops, the local jurisdiction and ODOT would undertake the same review process as with the redevelopment of LOT B (see Step 2); however, under this scenario ODOT and the local jurisdiction would use the previously obtained cross-over easement at Lot B to consolidate the access points of Lots A and B. ODOT would then relocate the conditional access of Lot B to align with the opposing access point and provide safe and efficient access to both Lots A and B. The consolidation of site-access driveways for Lots A and B will not only reduce the number of driveways accessing the highway, but will also eliminate the conflicting left-turn movements on the highway by the alignment with the opposing access point.
4	REDEVELOPMENT OF LOT D – The redevelopment of Lot D will be handled in the same manner as the redevelopment of Lot B (see Step 2)
5	REDEVELOPMENT OF LOT C – The redevelopment of Lot C will be reviewed once again to ensure that the site will accommodate crossover and/or consolidated access. Using the crossover agreements with Lots B and D, Lot C would share a consolidated access point with Lot D and will also have alternative frontage access via the shared site-access driveway of Lots A and B. By using the crossover agreement and conditional access permit process, the local jurisdiction and ODOT will be able to eliminate another access point and provide the alignment with the opposing access points.
6	COMPLETE – After Lots A, B, C, and D redevelop over time, the number of access points will be reduced and aligned, and the remaining access points will meet the Category 4 access management standard of 500-foot spacing.

g. Phased Development Plans.

In the interest of promoting unified access and circulation systems, development sites under the same ownership or consolidated for the purposes of development and comprised of more than one building site shall be reviewed as a single property in relation to the access standards of this section. The number of access points permitted shall be as defined in 17.26.020.2.b. All necessary easement agreements and stipulations within the phased development shall be met to assure that all tenants within the development have adequate access. This shall also apply to phased development plans.

All access to individual uses or buildings within a phased development must be internalized within the site plan using the shared circulation system of the principal development. Driveways shall be designed to avoid queuing across surrounding parking and driving aisles.

h. Access Spacing Standards

The streets within Stayton are classified as major arterials, minor arterials, collectors, neighborhood collectors, and local streets. The access spacing standards are shown in Table 17.26.020.3.h. for both full intersection spacing and driveway spacing. The access spacing standards shown in Table 17.26.020.3.h shall be measured as defined below. (Ord. 898, August 20, 2007; Amended Ord. 1034, July 17, 2019)

1) Access spacing between two driveways on Neighborhood Collector, Local Residential, and Local Commercial/Industrial Streets shall be measured from the perpendicular near edge of the driveway to the perpendicular near edge of the driveway. (Ord. 898, August 20, 2007; Amended Ord. 1034, July 17, 2019)

2) Access spacing between a driveway and an arterial, collector, or local street located on a Neighborhood Collector, Residential Local, or Commercial Local, or Industrial Local Street shall be measured from the perpendicular near edge of the driveway to the start of the tangent for the intersecting street. (Ord. 898, August 20, 2007; Amended Ord. 1034, July 17, 2019)

3) All other access spacing between driveways, between streets, and between streets and driveways shall be measured from center-to-center of the driveway or street. (Ord. 898, August 20, 2007; Amended Ord. 1034, July 17, 2019)

Table 17.26.020.3.h. Access Spacing Standard

Functional Roadway Classification	Minimum Public Intersection Spacing Standard	Minimum Spacing between Driveways and/or Streets
Major Arterial (Limited Access Facility)[1]	750 feet	375 feet
Major Arterial	260 feet	260 feet
Minor Arterial	600 feet	300 feet
Collector	260 feet	150 feet
Neighborhood Collector	260 feet	50 feet
Residential Local Street	260 feet	50 feet[2]
Commercial Local Street	260 feet	50 feet
Industrial Local Street	260 feet	50 feet

[1] This standard applies to on Cascade Highway north of Shaff Road and on S First Avenue south of Water Street.

[2] This standard only applies to a corner residential lot driveway spacing from the adjacent street and may be modified per 17.26.020.3.a). (Ord. 898, August 20, 2007; Amended Ord. 1034, July 17, 2019)

i. Highway 22 Terminal Ramps Control Zone

This subsection adopts the 1999 Oregon Highway Plan for access management spacing standards for the Highway 22 interchange ramps at Golf Club Road and Cascade Highway. The proposed Golf Lane realignment in the Stayton Transportation System Plan shall also be considered as an allowed deviation to the control standards. All future development adjacent to the control zone around the on- and off-ramp intersections must comply with the standards set forth in OAR 734-051-0010 *et seq*. (Amended Ord. 920, May 3, 2010)

j. Joint and Cross Access for Properties with Non-Conforming Access(es)

1) Adjacent non-residential uses shall provide a crossover easement drive and pedestrian access to allow circulation between sites.

2) A system of joint use driveways and crossover easements shall be established wherever feasible.

3) Pursuant to this section, property owners shall:

a) Record an easement with the deed allowing cross access to and from other properties served by the joint use driveways and cross access or service drive.

b) Record an agreement with the City of Stayton pre-existing driveways will be closed and eliminated after construction of the joint-use driveway.

c) Record a joint maintenance agreement with the deed defining maintenance responsibilities of property owners.

k. The City of Stayton may reduce required separation distance of access points defined in 17.26.020.3.h where they prove impractical as defined by the Public Works Director or his/her designee, provided all of the following requirements are met:

1) Joint access driveways and cross access easements are provided in accordance with this section.

2) The site plan incorporates a unified access and circulation system in accordance with this section.

3) The property owner enters into a written agreement with the City of Stayton, recorded with the deed, that pre-existing connections on the site will be closed and eliminated after construction of each side of the joint use driveway.

l. The City of Stayton may modify or waive the requirements of this section where the characteristics or layout of abutting properties would make a development of a unified or shared access and circulation system impractical based on physical site characteristics that make meeting the access standards infeasible.

1) The application of the location of access standard will result in the degradation of operational and safety integrity of the transportation system.

2) The granting of the variance shall meet the purpose and intent of these regulations and shall not be considered until every feasible option for meeting access standards is explored.

3) Applicants for variance from these standards must provide proof of unique or special conditions that make strict application of the provisions impractical. Applicants shall include proof that:

a) Indirect or restricted access cannot be obtained;

b) No engineering or construction solutions can be applied to mitigate the condition; and

c) No alternative access is available from a road with a lower functional classification that the primary roadway.

4) No variance shall be granted where such hardship is self-created.

4. ACCESS STANDARDS.

a. Driveway Design.

1) See Standard Specifications for Public Works Construction, Section 300 – Street Design Standards, 2.22b for minimum and maximum driveway widths.

2) Driveways providing access into off-street, surface parking lots shall be designed in such a manner to prevent vehicles from backing into the flow of traffic on the public street or to block on-site circulation. The driveway throat approaching the public street shall have adequate queue length for exiting vehicles to queue on-site without blocking on-site circulation of other vehicles. The driveway throat approaching the public street shall also have sufficient storage for entering traffic not to back into the flow of traffic onto the public street. A traffic impact study, subject to approval by the Public Works Director or his/her designee, shall be used to determine the adequate queue length of the driveway throat. This requirement shall be applied in conjunction with the design requirements of parking lots in section 17.20.060.9. If there is a conflict between these two code provisions, then this code provision supersedes those of 17.20.060.9.

3) Driveway approaches must be designed and located to provide an exiting vehicle with an unobstructed view. Sight distance triangle requirements are identified in 17.26.020.4.c and 17.26.020.4.d. Construction of driveways along acceleration lanes, deceleration lanes, or tapers shall be prohibited due to the potential for vehicular weaving conflicts unless there are no other alternatives for driveway locations. Only after a traffic impact study is conducted as defined in 17.26.050 and concludes that the driveway does not create a safety hazard along acceleration lanes, deceleration lanes, or taper shall the driveway be considered for approval. Approval of a driveway location along an acceleration lane, deceleration lane, or taper shall be based on the Public Works Director or his/her designee agreeing with the conclusions of the traffic impact study.

b. Public Road Stopping Sight Distance

Public roads shall have a minimum stopping sight distance requirement as summarized in Table 17.26.020.4.b. The minimum stopping sight distance is measured from a height of 3.5 feet to a target on the roadway nominally 6 inches in height.

Table 17.26.020.4.b - Stopping Sight Distance Requirement

Design Speed (mph)	**Minimum Distance (feet)**
25	155
30	200
35	250
40	305
45	360
50	425

The minimum stopping sight distance is based on design speed of the roadway. Design speed of the roadway is defined in Standard Specifications for Public Works Construction, Section 300 – Street Design Standards, 2.08. If a design speed is not known, then the assumed design speed shall be at least 5 mph more than the posted speed or may be measured as the 90th percentile speed.

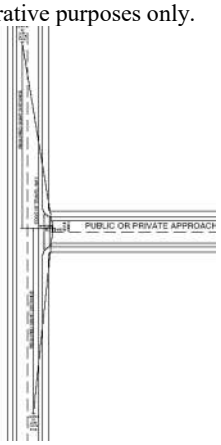
c. Sight Distance Triangle

Traffic entering an uncontrolled public road from a stop sign controlled public road, or from private roads or private driveways, shall have minimum sight distances, as shown in Table 17.26.020.4.c, except as allowed in 17.26.020.4.d.

Requirements regarding sight distance in 8.04.060 shall also be met.

The sight distance triangle is based on design speed of the roadway. Design speed of the roadway is defined in Standard Specifications for Public Works Construction, Section 300 – Street Design Standards, 2.08. If a design speed is not known, then the assumed design speed shall be at least 5 mph more than the posted speed or may be measured as the 90th percentile speed.

Sight Distance Triangle
For illustrative purposes only.



The intersection and driveway sight distance is measured from an eye height of 3.5 feet above the controlled road at least 15 feet from the edge of the vehicle travel lane of the uncontrolled public road to an object height of 4.25 feet on the uncontrolled public road in accordance with the table below. This definition for measuring sight distance is consistent with AASHTO (American Association of State Highway and Transportation Officials) standards.

Table 17.26.020.4.c
Intersection/Driveway Sight Distance Triangle Requirement

Design Speed (mph)	**Minimum Distance (feet)**
20	200
25	250
30	300
35	350
40	400
45	450
50	500

d. Uncontrolled Intersection and Driveway Sight Distance Triangle in Residential Areas

This subsection only applies to local access roads in urban and rural residential areas. Uncontrolled intersections shall have an unobstructed sight distance triangle of 30 feet along the property lines of both intersection approaches. Any vegetation within the sight distance triangle must be 24 inches in height or less. For driveways, the sight distance triangle along the driveway and property line adjacent to the public street shall be a minimum of 10 feet for each leg. Requirements regarding sight distance in 8.04.060 and 8.04.130 shall also be met.

e. (Repealed Ord. 913, September 2, 2009)

5. CONNECTIVITY AND CIRCULATION STANDARDS.

a. Connectivity.

1) The street system of proposed subdivisions shall be designed to connect with existing, proposed, and planned streets outside of the subdivision as specified in Section 17.24.050.1.a. (Amended Ord. 1034, July 17, 2019)

2) Wherever a proposed development abuts unplatted, developable land or a future development phase of the same development, street stubs shall be provided to provide access to abutting properties or to logically extend the street system into the surrounding area. This is consistent with and an extension of Section 17.24.050.1.a. (Amended Ord. 1034, July 17, 2019)

3) Neighborhood collectors and local residential access streets shall connect with surrounding streets to permit the convenient movement of traffic between residential neighborhoods or facilitate emergency access and evacuation. Connections shall be designed to avoid or minimize through traffic on local streets. Appropriate design and traffic calming measures are the preferred means of discouraging through traffic. (Amended Ord. 1034, July 17, 2019)

4) Developers shall construct roadways within their development site to conform to the Future Street Plan and Roadway Functional Classification Map in the Transportation System Plan. Flexibility of the future roadway alignment shall be at the discretion of the Public Works Director and/or his designee but must maintain the intent of the Future Street Plan. (Amended Ord. 1034, July 17, 2019)

5) A system of joint use driveways and crossover easements shall be established wherever feasible and shall incorporate the following:

a) A continuous service drive or crossover easement corridor extending the entire length of each block served to provide for driveway separation consistent with the access standards set for each functional roadway classification.

b) A design speed of 10 mph and a maximum width defined in the Public Works Design Standards, to accommodate two-way travel aisles designated to accommodate automobiles, service vehicles, and loading vehicles; (Amended Ord. 1034, July 17, 2019)

c) Access stub-outs and other design features to make it visually obvious that the abutting properties will be tied in to provide crossover easement via a service drive;

d) A unified access and circulation system plan shall be submitted as part of the documentation for joint and cross access. A unified access and circulation system plan encompasses contiguous, adjacent parcels that share access(es). The unified

access and circulation system plan shows how the joint and cross access(es) work together to meet the needs of all property owners and uses. It includes showing how parking areas of the various uses sharing access(es) coordinate and work with each other.

6) New partitions and subdivisions shall provide safe bicycle and pedestrian connections to adjacent existing and planned residential areas, transit stops, and activity centers. Non-motorized connectivity can be provided through sidewalks, trails, and striped and/or signed bicycle facilities on local roadways. (Added Ord. 1034, July 17, 2019)

b. Cul-de-sac and Accessways.

1) Cul-de-sacs or permanent dead-end streets may be used as part of a development plan only if topographical, environmental, or existing adjacent land use constraints make connecting and through streets infeasible. Where cul-de-sacs are planned, accessways shall be provided connecting the ends of cul-de-sacs to each other, to other streets, or to neighborhood activity centers unless topographical, environmental, or existing adjacent land use constraints make it infeasible.

2) Accessways for pedestrians and bicyclists shall be 10 feet wide and located within a 15-foot-wide right-of-way or easement. If the streets within the subdivision are lighted, the accessways shall also be lighted at residential/residential illumination standard. See Standard Specifications for Public Works Construction, Section 300 – Street Design Standards, 2.21, Street Lighting for actual specific street lighting standards. Stairs or switchback paths may be used where grades are steep. Any vegetation planted within the accessway shall be less than 30 inches in height and must not create a safety issue for pedestrians and bicyclists.

c. Street Connectivity and Formation of Blocks (Block Length and Perimeter Standard).

In order to promote efficient vehicular and pedestrian circulation throughout the city, subdivisions and site development shall be served by a connecting network of public streets and/or accessways, in accordance with the following standards (minimum and maximum distances between two streets or a street and its nearest accessway measured from right-of-way line to right-of-way line as shown in Figure 17.26.020.5.c.

1) Residential Districts.

Minimum 100-foot block length and maximum of 600-foot length; maximum 1,400 feet block perimeter;

2) Downtown/Main Streets.

Minimum 100-foot block length and maximum of 400-foot length; maximum 1,200 feet block perimeter;

3) General Commercial Districts.

Minimum 100-foot block length and maximum of 600-foot length; maximum 1,400 feet block perimeter;

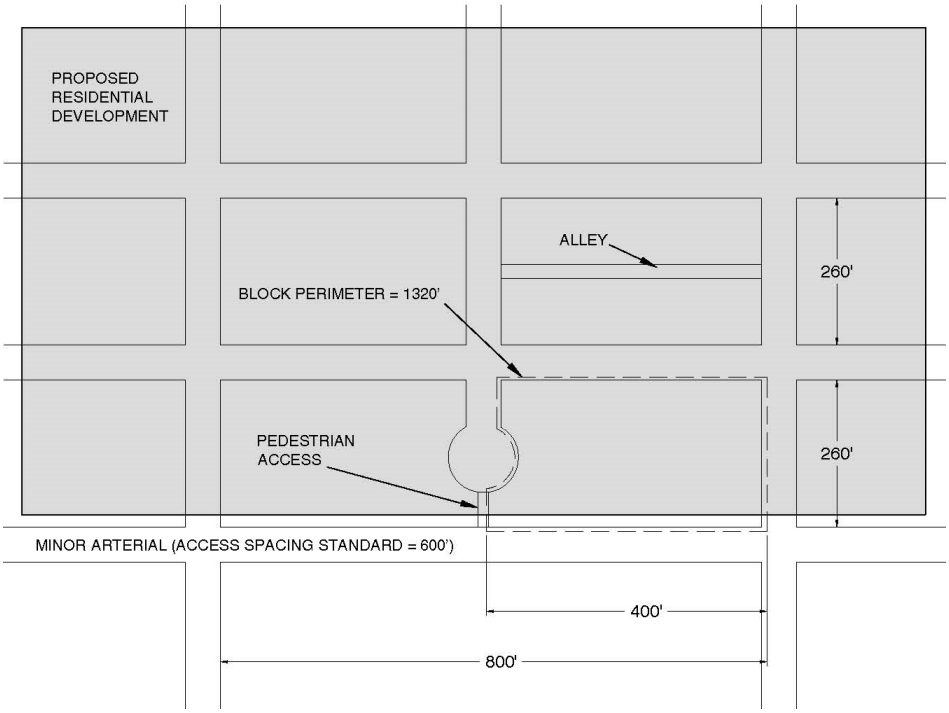
4) Industrial Districts. Not applicable

If a hardship can be demonstrated in which it is not practically feasible to meet these standards due to topographical, environmental, or other significant constraints, then these conditions may be requested to be modified through the Public Works Director or his/her designee. At no time shall any block length be greater than 600 feet and its

maximum block perimeter 1,800 feet for roadways with urbanized area principal arterials, minor arterials, or lower classification.

Alleys as defined in the City's Street Design Standards may be used within residential subdivisions but cannot be used in the maximum block perimeter calculation. The maximum alley length is 600 feet between ties to public streets. Midblock access(s) to alleys must align with existing or planned public streets.

Figure 17.26.020.5.c.



6. DEVELOPMENT REVIEW PROCEDURE FOR ACCESS MANAGEMENT.

   a. Applicants for Development Reviews impacting access shall submit a preliminary site plan that shows:

      1) Location of existing and proposed access point(s) on both sides of the roadway for a distance equal to the spacing standard for that facility;

      2) Distances from proposed access point to neighboring constructed access points, median openings (where applicable), traffic signals (where applicable), intersections, and other transportation features on both sides of the property;Number and direction of lanes to be constructed on the driveway plus striping plans;

      3) All planned transportation features (such as sidewalks, bikeways, signs, signals, etc.);

   b. Development Reviews shall address the following access criteria:

      1) Access shall be properly placed in relation to sight distance, driveway spacing, and other related considerations, including opportunities for joint and cross access.

      2) The external road system to the project site and internal road system within the project site shall provide adequate access to buildings for residents, visitors, deliveries, emergency vehicles, and garbage collection.

3) The access shall be consistent with the access management standards adopted in the Transportation System Plan and contained within 17.26.010.

c. Any application that involves access to the State Highway System shall be reviewed by the Oregon Department of Transportation for conformance with state access management standards. Any application that involves access to Marion County's roadway system shall be reviewed by City of Stayton staff for conformance with City of Stayton access management standards.

17.26.030 BICYCLE PARKING AND BICYCLE CIRCULATION AND ACCESS

1. PURPOSE

   The purpose of this chapter is to create requirements to development that encourage the use of non-motorized modes of transportation such as walking and bicycling. These requirements are bicycle parking and circulation and access requirements that enhance pedestrian and bicycle facilities.

2. (Repealed Ord. 913, September 2, 2009)

   a. (Repealed Ord. 913, September 2, 2009)

   b. (Repealed Ord. 913, September 2, 2009)

   c. (Repealed Ord. 913, September 2, 2009)

3. (Repealed Ord. 913, September 2, 2009)

   a. (Repealed Ord. 913, September 2, 2009)

   b. (Repealed Ord. 913, September 2, 2009)

4. SITE PLANS

   Required elements for a site plan shall include the design and location of bicycle and pedestrian circulation elements such as accessways, walkways, and transit facilities.

   a. All site plans shall clearly show how the site's internal pedestrian and bicycle facilities connect with external existing or planned facilities or systems.

   b. All site plans shall construct pedestrian facilities as identified on the city's trails map.

   c. Preliminary subdivision plans and final plats shall show the location and design of all proposed pedestrian and bicycle facilities, including accessways.

5. BICYCLE CIRCULATION AND ACCESS

   Bicycle circulation and access requirements as it relates to cul-de-sacs and accessways are contained in Section 17.26.020.5.b.

17.26.040 TRANSPORTATION SYSTEM DEVELOPMENT CHARGE

Refer to Chapter 13.12 for transportation system development charge requirements.

17.26.050 TRANSPORTATION IMPACT ANALYSIS REQUIREMENTS

INTENT AND PURPOSE

A transportation impact analysis (TIA) provides an objective assessment of the anticipated modal transportation impacts associated with a specific land use action. A TIA is useful for answering important transportation-related questions such as:

- Can the existing transportation system accommodate the proposed development from a capacity and safety standpoint?
- What transportation system improvements are necessary to accommodate the proposed development?
- How will access to the proposed development affect the traffic operations on the existing transportation system?
- What transportation impacts will the proposed development have on the adjacent land uses, including commercial, institutional, and residential uses?
- Will the proposed development meet current standards for roadway design?

Throughout the development of the TIA (and beginning as early as possible), cooperation between City of Stayton staff, the applicant, and the applicant's traffic engineer is encouraged to provide an efficient and effective process.

City of Stayton staff may, at its discretion, and depending on the specific situation, require additional study components in a TIA beyond what is outlined in this section.

The City of Stayton assumes no liability for any costs or time delays (either direct or consequential) associated with the preparation and review of a transportation impact analysis.

1. When a Transportation Impact Analysis is Required. A TIA shall be required when:
   a. The development generates 25 or more peak-hour trips or 250 or more daily trips.
   b. An access spacing exception is required for the site access driveway(s) and the development generates 10 or more peak-hour trips or 100 or more daily trips.
   c. The development is expected to impact intersections that are currently operating at the upper limits of the acceptable range of level of service during the peak operating hour.
   d. The development is expected to significantly impact adjacent roadways and intersections that have previously been identified as high crash locations or areas that contain a high concentration of pedestrians or bicyclists such as school
2. When a Transportation Assessment Letter is Required. If a TIA is not required, the applicant's traffic engineer shall submit a transportation assessment letter to the City indicating the proposed land use action is exempt. This letter shall outline the trip-generating characteristics of the proposed land use and verify that the site-access driveways or roadways meet City of Stayton sight-distance requirements and roadway design standards.

   The Public Works Director may waive the requirement for a transportation assessment letter if a clear finding can be made that the proposed land use action does not generate 25 or more peak-hour trips or 250 or more daily trips and the existing and or proposed driveway(s) meet the City's sight-distance requirements and access spacing standards

3. Contents of a Transportation Impact Analysis. As a guide in the preparation of a transportation impact analysis, the City of Stayton recommends the following format be used to document the analysis.

   a. Table of Contents. Listing of all sections, figures, and tables included in the report.

   b. Executive Summary. Summary of the findings and recommendations contained within the report.

   c. Introduction. Proposed land use action, including site location, building square footage, and project scope. Map showing the proposed site, building footprint, access driveways, and parking facilities. Map of the study area, which shows site location and surrounding roadway facilities.

   d. Existing Conditions. Existing site conditions and adjacent land uses. Roadway characteristics (all transportation facilities and modal opportunities located within the study area, including roadway functional classifications, street cross section descriptions, posted speeds, bicycle and pedestrian facilities, on-street parking, and transit facilities). Existing lane configurations and traffic control devices at the study area intersections. Existing traffic volumes and operational analysis of the study area roadways and intersections. Roadway and intersection crash history analysis.

   e. Background Conditions (without the proposed land use action). Approved developments and funded transportation improvements in the study area. Traffic growth assumptions. Addition of traffic from other planned developments. Background traffic volumes and operational analysis.

   f. Full Buildout Traffic Conditions (with the proposed land use action). Description of the proposed development plans. Trip-generation characteristics of the proposed development (including trip reduction documentation). Trip distribution assumptions. Full buildout traffic volumes and intersection operational analysis. Intersection and site-access driveway queuing analysis. Expected safety impacts. Recommended roadway and intersection mitigations (if necessary).

   g. Site Circulation Review. Evaluate internal site access and circulation. Review pedestrian paths between parking lots and buildings. Ensure adequate throat depth is available at the driveways and that vehicles entering the site do not block the public facilities. Review truck paths for the design vehicle.

   h. Turn Lane Warrant Evaluation. Evaluate the need to provide turn lanes at the site driveways.

   i. Conclusions and Recommendations. Bullet summary of key conclusions and recommendations from the transportation impact analysis.

   j. Appendix. Traffic counts summary sheets, crash analysis summary sheets, and existing/background/full buildout traffic operational analysis worksheets. Other analysis summary sheets such as queuing and signal warrant analyses.

   k. Figures. The following list of figures should be included in the Transportation Impact Analysis: Site Vicinity Map; Existing Lane Configurations and Traffic Control Devices; Existing Traffic Volumes and Levels of Service (all peak hours evaluated); Future Year Background Traffic Volumes and Levels of Service (all peak hours evaluated); Proposed Site Plan; Future Year Assumed Lane Configurations and Traffic Control Devices;

Estimated Trip Distribution Pattern; Site-Generated Traffic Volumes (all peak hours evaluated); Full Buildout Traffic Volumes and Levels of Service (all peak hours evaluated).

l. Preparer Qualifications. A professional engineer registered in the State of Oregon shall prepare the Transportation Impact Analyses. In addition, the preparer should have extensive experience in the methods and concepts associated with transportation impact studies.

4. Study Area. The study area shall include, at a minimum, all site-access points and intersections (signalized and unsignalized) adjacent to the proposed site. If the proposed site fronts an arterial or collector street; the study shall include all intersections along the site frontage and within the access spacing distances extending out from the boundary of the site frontage. Beyond the minimum study area, the transportation impact analysis shall evaluate all intersections that receive site-generated trips that comprise at least 10% or more of the total intersection volume. In addition to these requirements, the Public Works Director (or his/her designee) shall determine any additional intersections or roadway links that might be adversely affected as a result of the proposed development. The applicant and the Public Works Director (or his/her designee) will agree on these intersections prior to the start of the transportation impact analysis.

5. Study Years to be Analyzed in the Transportation Impact Analysis. A level-of-service analysis shall be performed for all study roadways and intersections for the following horizon years:

   a. Existing Year. Evaluate all existing study roadways and intersections under existing conditions.

   b. Background Year. Evaluate the study roadways and intersections in the year the proposed land use is expected to be fully built out, without traffic from the proposed land use. This analysis should include traffic from all approved developments that impact the study intersections, or planned developments that are expected to be fully built out in the horizon year.

   c. Full Buildout Year. Evaluate the expected roadway, intersection, and land use conditions resulting from the background growth and the proposed land use action assuming full build-out and occupancy. For phased developments, an analysis shall be performed during each year a phase is expected to be completed.

   d. Twenty-Year Analysis. For all land use actions requesting a Comprehensive Plan Amendment and/or a Zone Change, a long-term level-of-service analysis shall be performed for all study intersections assuming buildout of the proposed site with and without the comprehensive plan designation and/or zoning designation in place. The analysis should be performed using the future year traffic volumes identified in the Transportation System Plan (TSP). If the applicant's traffic engineer proposes to use different future year traffic volumes, justification for not using the TSP volumes must be provided along with documentation of the forecasting methodology.

6. Study Time Periods to be Analyzed in the Transportation Impact Analysis. Within each horizon year, a level-of-service analysis shall be performed for the time period(s) that experience the highest degree of network travel. These periods typically occur during the mid-week (Tuesday through Thursday) morning (7:00 a.m. to 9:00 a.m.), mid-week evening (4:00 p.m. to 6:00 p.m.), and Saturday afternoon (12:00 p.m. to 3:00 p.m.) periods. The transportation impact analysis should always address the weekday a.m. and p.m. peak hours when the proposed lane use action is expected to generate 25 trips or more during the peak time periods. If the applicant can demonstrate that the peak-hour trip generation of the proposed land use

action is negligible during one of the two peak study periods and the peak trip generation of the land use action corresponds to the roadway system peak, then only the worst-case study period need be analyzed.

Depending on the proposed land use action and the expected trip-generating characteristics of that development, consideration of non-peak travel periods may be appropriate. Examples of land uses that have non-typical trip generating characteristics include schools, movie theaters, and churches. The Public Works Director (or his/her designee) and applicant should discuss the potential for additional study periods prior to the start of the transportation impact analysis.

7. Traffic Count Requirements. Once the study periods have been determined, turning movement counts should be collected at all study area intersections to determine the base traffic conditions. These turning movement counts should typically be conducted during the weekday (Tuesday through Thursday) between 7:00 and 9:00 a.m. and between 4:00 and 6:00 p.m., depending on the proposed land use. Historical turning movement counts may be used if the data are less than 12 months old, but must be factored to meet the existing traffic conditions.

8. Trip Generation for the Proposed Development. To determine the impacts of a proposed development on the surrounding transportation network, the trip-generating characteristics of that development must be estimated. Trip-generating characteristics should be obtained from one of the following acceptable sources:

   a. Institute of Transportation Engineers (ITE) Trip Generation Manual (latest edition).

   b. Specific trip generation studies that have been conducted for the particular land use action for the purposes of estimating peak-hour trip-generating characteristics. The Public Works Director (or his/her designee) should approve the use of these studies prior to their inclusion in the transportation impact analysis.

   c. In addition to new site-generated trips, several land uses typically generate additional trips that are not added to the adjacent traffic network. These trips include pass-by trips and internal trips and are considered to be separate from the total number of new trips generated by the proposed development. The procedures listed in the most recent version of the Trip Generation Handbook (ITE) should be used to account for pass-by and internal trips.

9. Trip Distribution. Estimated site-generated traffic from the proposed development should be distributed and assigned on the existing or proposed arterial/collector street network. Trip distribution methods should be based on a reasonable assumption of local travel patterns and the locations of off-site origin/destination points within the site vicinity. Acceptable trip distribution methods should be based on one of the following procedures:

   a. An analysis of local traffic patterns and intersection turning movement counts gathered within the previous 12 months.

   b. A detailed market study specific to the proposed development and surrounding land uses.

10. Intersection Operation Standards. The City of Stayton evaluates intersection operational performance based on levels of service and "volume-to-capacity" (v/c) ratio. When evaluating the volume-to-capacity ratio, the total traffic demand shall be considered.

    a. Intersection Volume-to-Capacity Analysis. A capacity analysis should be performed at all intersections within the identified study area. The methods identified in the latest edition of the Highway Capacity Manual, published by the Transportation Research Board, are to be used for all intersection capacity calculations. The City of Stayton requires that all intersections within the study area must maintain a v/c ratio of 0.95 or less. It should be

noted that the mobility standards in the Oregon Highway Plan apply to Oregon Department of Transportation facilities.

b. Intersection Levels of Service. The City of Stayton requires all intersections within the study area to maintain an acceptable level of service (LOS) upon full buildout of the proposed land use action. LOS calculations for signalized intersections are based on the average control delay per vehicle, while LOS calculations for unsignalized intersections are based on the average control delay and volume-to-capacity ratio for the worst or critical movement. All LOS calculations should be made using the methods identified in the most recent version of the Highway Capacity Manual (or by field studies), published by the Transportation Research Board. The minimum acceptable level of service for signalized intersections is LOS "D". The minimum acceptable level of service for all-way stop controlled intersections and roundabouts is LOS "D". The minimum acceptable level of service for unsignalized two-way stop controlled intersections is LOS "E" or LOS "F" with a v/c ratio of 0.95 or less for the critical movement. Any intersections not operating at these standards will be considered to be unacceptable.

11. Review Policy and Procedure. The following criteria should be used in reviewing a transportation impact analysis as part of a subdivision or site plan review.

    a. The road system is designed to meet the projected traffic demand at full build-out.

    b. Proposed driveways do not adversely affect the functional character of the surrounding roadways.

    c. Adequate intersection and stopping sight distance is available at all driveways.

    d. Proposed driveways meet the City's access spacing standard or sufficient justification is provided to allow a deviation from the spacing standard.

    e. Opportunities for providing joint or crossover access have been pursued.

    f. The site does not rely upon the surrounding roadway network for internal circulation.

    g. The road system provides adequate access to buildings for residents, visitors, deliveries, emergency vehicles, and garbage collection.

    h. A pedestrian path system is provided that links buildings with parking areas, entrances to the development, open space, recreational facilities, and other community facilities per the Transportation Planning Rule.

12. Conditions of Approval. As part of every land use action, the City of Stayton, Marion County (if access to a County roadway is proposed), and ODOT (if access to a state roadway is proposed) will be required to identify conditions of approval needed to meet operations and safety standards and provide the necessary right-of-way and improvements to develop the future planned transportation system. Conditions of Approval that should be evaluated as part of subdivision and site plan reviews include:

    a. Crossover easement agreements for all adjoining parcels to facilitate future access between parcels.

    b. Conditional access permits for new developments which have proposed access points that do not meet the designated access spacing policy and/or have the ability to align with opposing access driveways.

    c. Right-of-way dedications for future planned roadway improvements.

d. Half-street improvements along site frontages that do not have full-buildout improvements in place at the time of development.

13. Transportation Impact Analysis Checklist. As part of the transportation impact analysis review process, all transportation impact analyses submitted to the City of Stayton must satisfy the requirements illustrated in the Checklist for Acceptance of Transportation Impact Analyses.

Checklist for Acceptance of Transportation Impact Analysis

Title of Report: _____

Author: _____ Date: _____

Yes	No	N/A	
			BACKGROUND INFORMATION
☐	☐	☐	P. E. Stamp and Signature
☐	☐	☐	Proper format including Table of Contents, Executive Summary, Conclusions, and Appendices
			EXISTING CONDITIONS
☐	☐	☐	Description of proposed land use action
☐	☐	☐	Figure - Proposed Site Plan
☐	☐	☐	Figure - Site Vicinity Map showing the minimum study area boundary
☐	☐	☐	Description of existing site conditions and adjacent land uses
☐	☐	☐	Description of existing transportation facilities including roadway, transit, bicycle, and pedestrian facilities
☐	☐	☐	Figure - Existing Lane Configurations and Traffic Control Devices
☐	☐	☐	Figure - Existing traffic-volumes measured within previous 12 months
☐	☐	☐	Existing conditions analysis of the study area intersections
☐	☐	☐	Roadway and intersection crash history analysis
			BACKGROUND CONDITIONS
☐	☐	☐	Approved planned developments and funded transportation improvements
☐	☐	☐	Documentation of traffic growth assumptions and added traffic from other planned developments
☐	☐	☐	Figure – Background traffic volumes at study area intersections
☐	☐	☐	Background conditions analysis of the study area intersections
			FULL BUILDOUT CONDITIONS
☐	☐	☐	Description of proposed land use action and intended use
☐	☐	☐	Trip Generation - Based on most recent edition of ITE Trip Generation or approved other rates; include daily, AM, and PM peak hour (other time periods where applicable); provide complete documentation of calculations.
☐	☐	☐	Trip Distribution - Based on a regional planning model, supplied by staff, or analysis of local traffic patterns based on collected data.
☐	☐	☐	Figure – Estimated Trip Distribution Pattern (showing assignment onto major arterial/collector system)
☐	☐	☐	Figure – Site-Generated Traffic Volumes at study area intersections
☐	☐	☐	Figure – Full Buildout Traffic Volumes at study area intersections
☐	☐	☐	Full Buildout conditions analysis of the study area intersections
☐	☐	☐	Identify study area intersection and access driveway deficiencies
			WARRANTS/SAFETY ANALYSIS
☐	☐	☐	Verify compliance to Access Spacing Standard or justify any variance needed
☐	☐	☐	Address potential safety problems resulting from conflicting turn movements with other driveways and internal traffic circulation
☐	☐	☐	Determine need for storage lanes, right-turn lanes, and left-turn lanes
☐	☐	☐	Address availability of adequate sight distance at frontage road access points, for both existing and ultimate road configuration
☐	☐	☐	Evaluate need for deceleration lanes, and channelization when determined necessary by accepted standards and practices.
☐	☐	☐	Evaluate whether traffic signals are warranted at study area intersections
			IMPROVEMENT RECOMMENDATIONS

☐	☐	☐	Identify alternate methods of mitigating identified deficiencies
☐	☐	☐	If a signal is warranted, recommend type of signal control and phasing
☐	☐	☐	If turn lanes required, recommend amount of storage

OTHER

☐	☐	☐	Technical Appendix-sufficient material to convey complete understanding to staff of technical adequacy

COMMENTS:

_____

_____

_____

_____

_____

Reviewed by: _____ Date of Review: _____

NOTE: This checklist displays the minimum information required for a Transportation Impact Analysis to be accepted as complete. Acceptance does not certify adequacy and is in no way an approval. Additional information may be required after acceptance of the Transportation Impact Analysis.

17.26.060 METHOD FOR REVIEWING TRANSPORTATION IMPROVEMENT PROJECTS NOT IDENTIFIED IN THE TRANSPORTATION SYSTEM PLAN

1. PURPOSE.

   A Method for Reviewing Transportation Improvement Projects Not Identified in the Transportation System Plan and those projects permitted outright.

2. PERMITTED USES.

   Except where otherwise specifically regulated by the Stayton Municipal Code, the following improvements are permitted outright:

   a. Installation of utilities is permitted outright without a land use permitting process but is subject to Stayton Municipal Code.

   b. Normal operation, maintenance, repair, and preservation activities of existing transportation facilities.

   c. Installation or reconstruction of bridges, culverts, pathways, bicycle/pedestrian facilities, storm drainage facilities, medians, fencing, guardrails, lighting, and similar types of improvements within the existing right-of-way.

   d. Projects specifically identified in the Transportation System Plan as not requiring further land use regulation. (Ord. 898, August 20, 2007)

   e. Landscaping as part of a transportation facility.

   f. Emergency measures necessary for the safety and protection of life, property, and/or environment.

   g. Acquisition of right-of-way for public roads, highways, and other transportation improvements designated in the Transportation System Plan. (Ord. 898, August 20, 2007)

   h. Construction, widening, or reconstruction of a new or existing street, pathways, bicycle/pedestrian facilities, storm drainage facilities, bridges, or other transportation project as part of an approved subdivision or land partition approved consistent with the applicable land division ordinance.

3. CONDITIONAL USES.

   Construction, reconstruction, or widening of highways, roads, bridges or other transportation projects that are: (1) not improvements designated in the Transportation System Plan or (2) not designed and constructed as part of a subdivision or master planned development shall meet the following criteria in addition to the approval criteria of Section 17.12.190.4: (Ord. 898, August 20, 2007)

   a. The project is designed to be compatible with existing land use and social patterns, including noise generation, safety, and zoning.

   b. The project is designed to minimize avoidable environmental impacts to identified wetlands, wildlife habitat, air and water quality, cultural resources, and scenic qualities.

   c. The project preserves or improves the safety and function of the facility through access management, traffic calming, or other design features.

d. Project includes provision for bicycle and pedestrian circulation as consistent with the comprehensive plan, transportation system plan, and other requirements of the Stayton Municipal Code.

17.26.070 TRANSIT-RELATED REQUIREMENTS

1. PURPOSE

   The purposed of this Section is to ensure that new retail, office and institutional buildings provide access to transit facilities and facilitate transit ridership.

2. APPLICABLILITY AND REIREMENTS

   Retail, office, and institutional developments that are proposed on the same site as, or adjacent to, an existing or planned transit stop as designated in an adopted transportation or transit plan shall provide the following transit access and supportive improvements in coordination with the transit service provider:

   a. Reasonably direct pedestrian connections between the transit stop and primary entrances of the buildings on site. For the purpose of this Section, "reasonably direct" means a route that does not deviate unnecessarily from a straight line or a route that does not involve a significant amount of out-of-direction travel for users.

   b. The primary entrance of the building closest to the street where the transit stop is located is oriented to that street.

   c. A transit passenger landing pad that is ADA accessible.

   d. An easement or dedication for a passenger shelter or bench if such an improvement is identified in an adopted plan.

   e. Lighting at the transit stop.

   f. Other improvements identified in an adopted plan.

(Section 17.26.070 Added Ord. 1034, July 17, 2019)