

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: September 20, 2023

Order ____ No.	Ordinance <u>X</u> No. 2023-04	Resolution ____ No.	Motion ____	Information ____
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SUBJECT: ORDINANCE NO. O-2023-04 AN ORDINANCE CONSIDERING LAND USE FILE #23-04 AMENDING THE TILE 16 COMMUNITY DEVELOPMENT CODE AND OTHER MUNICIPAL CODE.

**Contact Person (Preparer) for this Motion: Ronnie Smith, City Recorder
Peter Watts, City Attorney
Dept.: City Manager & Legal**

RECOMMENDATION:

The City Council should conduct a public hearing, consider the staff report, Planning Commission recommendation and public comments, and decide whether to approve, approve with amendments, or disapprove the proposed code amendments to the City Council.

City staff recommends that the King City Council approve the Community Development Code amendments necessary to implement the Kingston Terrace Master Plan and to amend other provisions in the Municipal Code.

EXECUTIVE SUMMARY:

The Title 16 amendments mainly pertain to the Kingston Terrace Master Plan area, while Municipal Code amendments address citywide concerns. The Kingston Terrace Master Plan (KTMP) process, recently adopted, guides the development regulations outlined in Title 16 Community Development Code (CDC) amendments in Exhibit A. These CDC amendments introduce new requirements specific to Kingston Terrace and include zoning, density standards, design guidelines, and a regulating plan. Additionally, Exhibit B contains Municipal Code amendments addressing citywide matters, such as Planning Commission rules and nuisance, Open Burning, Overnight Camping, and System Development Charges regulations.

FISCAL IMPACT:

STRATEGIC ASSESSMENT:

ORDINANCE No. 2023-04

AN ORDINANCE CONSIDERING LAND USE FILE #23-04 AMENDING THE TITLE 16 COMMUNITY DEVELOPMENT CODE AND OTHER MUNICIPAL CODE

RECITALS:

WHEREAS, the City is proposing amendments to the King City Community Development Code to align with Kingston Terrace Master Plan, Climate Friendly and Equitable Communities (CFEC,) State and Federal laws; and

WHEREAS, these amendments are necessary to ensure development compliance with the Kingston Terrace Master Plan policies (O-2023-02), King City Comprehensive Plan amendments (O-2023-03), and King City Transportation System Plan policies (O-2023-01;) and

WHEREAS, the City provided notice of the hearings before the Planning Commission and City Council of the post-acknowledgment amendments as required by state law, including notice to the Department of Land Conservation and Development prior to the initial evidentiary hearing consistent with ORS 197.610; and

WHEREAS, on July 26, 2023, the King City Planning Commission held a public hearing and recommended approval of the proposed Community Development Code amendments; and

WHEREAS, on September 20, 2023, the City Council of King City held a public hearing to consider the Planning Commission's recommendation, hear public testimony, apply applicable decision-making criteria, and to consider appropriate findings and conclusions in support of adoption.

WHEREAS, based upon the recommendations, evidence, and public testimony already in the record and the evidence and testimony presented at the September 20, 2023, City Council public hearing;

WHEREAS, Substantial evidence exists within the record to demonstrate that the proposed Title 16 Community Development Code, including the maps, meets the local, Regional, and State law requirements as described in the Staff Reports Recommended Findings and Conclusions.

NOW, THEREFORE, THE CITY OF KING CITY ORDAINS AS FOLLOWS:

SECTION 1. Amendments: Title 16 Community Development Code is amended as shown in Exhibit A, attached hereto.

SECTION 2. Amendments: King City Municipal Code is amended as shown in Exhibit B, attached hereto.

SECTION 3. Severability Clause: If any section, subsection, sentence, clause, phrase, paragraph, or portion of this ordinance 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 portion hereof.

SECTION 4. Effective Date: This Ordinance shall be effective 30 days after its adoption.

Read the first time on September 20, 2023, and moved to the second reading by roll call vote of the City Council.

Read the second time and adopted by the City of King City Council on _____.

Yeas: _____

Nays: _____

Abstained: _____

Signed by the Mayor on _____.

Jaimie Fender, Mayor

ATTEST:

Approved as to Form:
Peter Watts PC

Ronnie L. Smith, City Recorder

City Attorney

{City Seal}

EXHIBIT A

City of King City - Title 16 Community Development Code Amendments
(9/13/2023)

CHAPTER 16.114 KINGSTON TERRACE DISTRICT CODE

EXHIBIT A – DRAFT TITLE 16 COMMUNITY DEVELOPMENT CODE AMENDMENTS
September 13, 2023

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CHAPTER 16.114 KINGSTON TERRACE DISTRICT CODE

16.114.010 Purpose and Intent

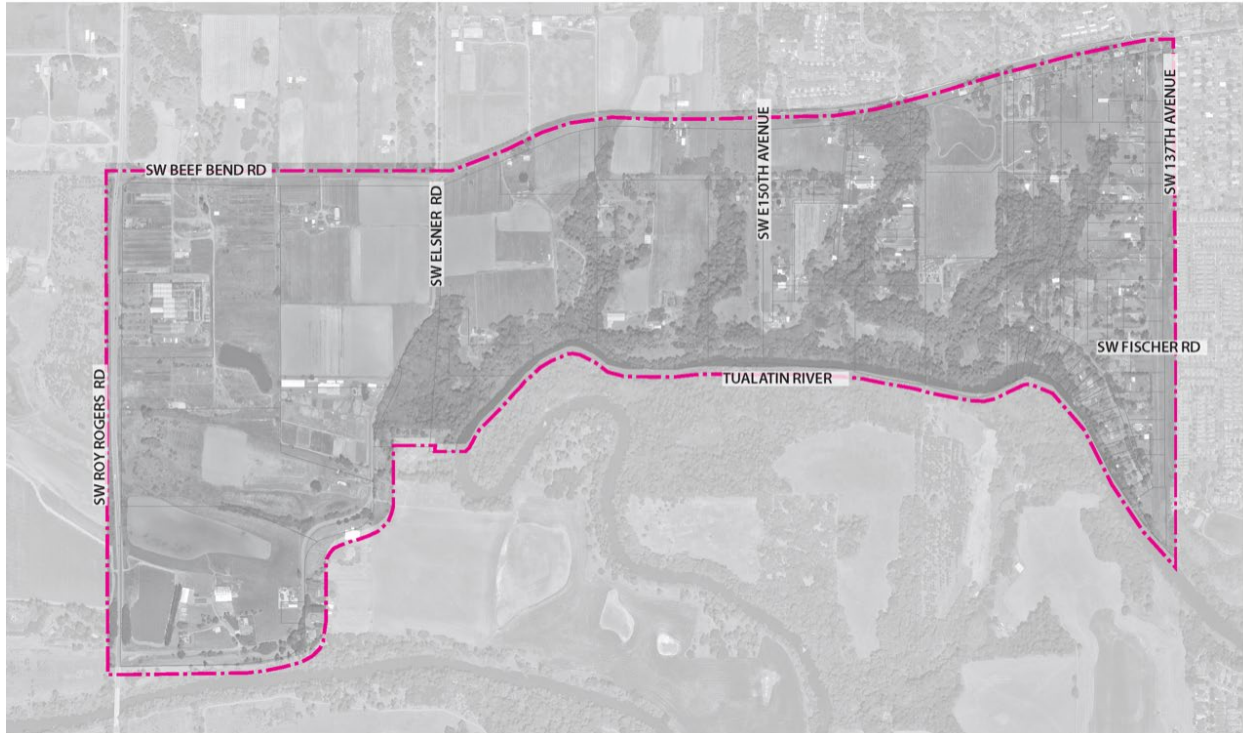
- A. The Kingston Terrace District development and design standards reflect the City’s goals, policies, and implementation measures in the Kingston Terrace Master Plan; specifically:
1. Support development of a vibrant and dynamic residential community that includes opportunities for retail, neighborhood servicing commercial, and municipal uses;
 2. Provide a wide range of housing types that are attainable to a diversity of households;
 3. Facilitate connectivity for all modes of travel throughout the community;
 4. Integrate and connect open spaces and natural areas with built spaces;
 5. Support environmental sustainability and climate resiliency approaches;
 6. Provide for orderly and efficient extension of public services, facilities, and utilities; and
 7. Provide a clear and objective permitting path for development to occur.

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16.114.020 Applicability

- A. The standards of this section apply only to properties within the Kingston Terrace Plan District boundary as shown on Figure 16.114-1.

Figure 16.114-1 Kingston Terrace Plan District



- B. The design standards of this chapter do not apply to existing uses and buildings within the Kingston Terrace Plan District.
- C. All other standards and requirements in this title apply to development within the Kingston Terrace District except as modified or exempted as noted in Table 16.114-1:

Table 16.114-1 Applicable Title 16 - Community Development & Zoning Code

Standard	Code Section	
Introduction and General Provisions	Article I.	Applies.
Procedures	Article II.	Modified by Section 16.114.150
Land Use Districts	Article III.	Only Sections 16.80, 16.82, 16.84.060, and 16.114 apply.
Development Standards	Article IV.	
Solar Balance Point Standards	16.116	Exempt.
Manufactured/ Mobile Home Regulations	16.120	Applies.
Landscaping and Beautification	16.124	Applies.
Tree Removal	16.128	Applies.
Parking and Loading	16.132	Exempt. Superseded by Section 16.114.130

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Standard	Code Section	
Circulation and Access	16.136	Applies except for 16.136.030, 16.136.040, and 16.136.050.C.6
Access standards – Residential	16.136.030	Exempt. Superseded by Section 16.114.120
Access standards – Non-residential.	16.136.040	Exempt. Superseded by Section 16.114.120
Design standards.	16.136.050.C.6.	Exempt. Superseded by Section 16.114.060
Floodplain and Drainage Hazard Area	16.140	Applies.
Goal 5 Safe Harbor Review	16.142	Exempt. Superseded by Section 16.114.080
Vision Clearance	16.144	Applies.
Residential Density Calculation	16.146	Exempt. Superseded by Section 16.114.050
Signs	16.148	Applies.
Planned Development	16.150	Exempt. Superseded by Section 16.114.150
Development Review	Article V.	
Site Plan Review	16.152	Exempt. Superseded by Section 16.114.150
Conditional Uses	16.156	Applies.
Nonconforming Situations	16.160	Applies.
Variance	16.164	Applies.
Temporary Uses	16.168	Applies.
Home Occupations	16.172	Applies.
Accessory Structures	16.176	Applies.
Accessory Dwelling Units	16.178	Applies.
Communication Facilities and Structures	16.179	Applies.
Fences and Walls	16.180	Applies.
Patio Covers and Patio Enclosures	16.184	Exempt.
Decks/ Spas and Hot Tubs	16.188	Exempt.
Annexation	16.192	Applies.
Land Division	Article VI.	
Subdivision	16.196	Applies.
Major and Minor Land Partitions and Lot Line Adjustments	16.200	Applies.
Solar Access Standards for New Development	16.204	Exempt.
Public Facilities and Services	Article VII.	
Improvements	16.208	Exempt. Superseded by Section 16.114.140

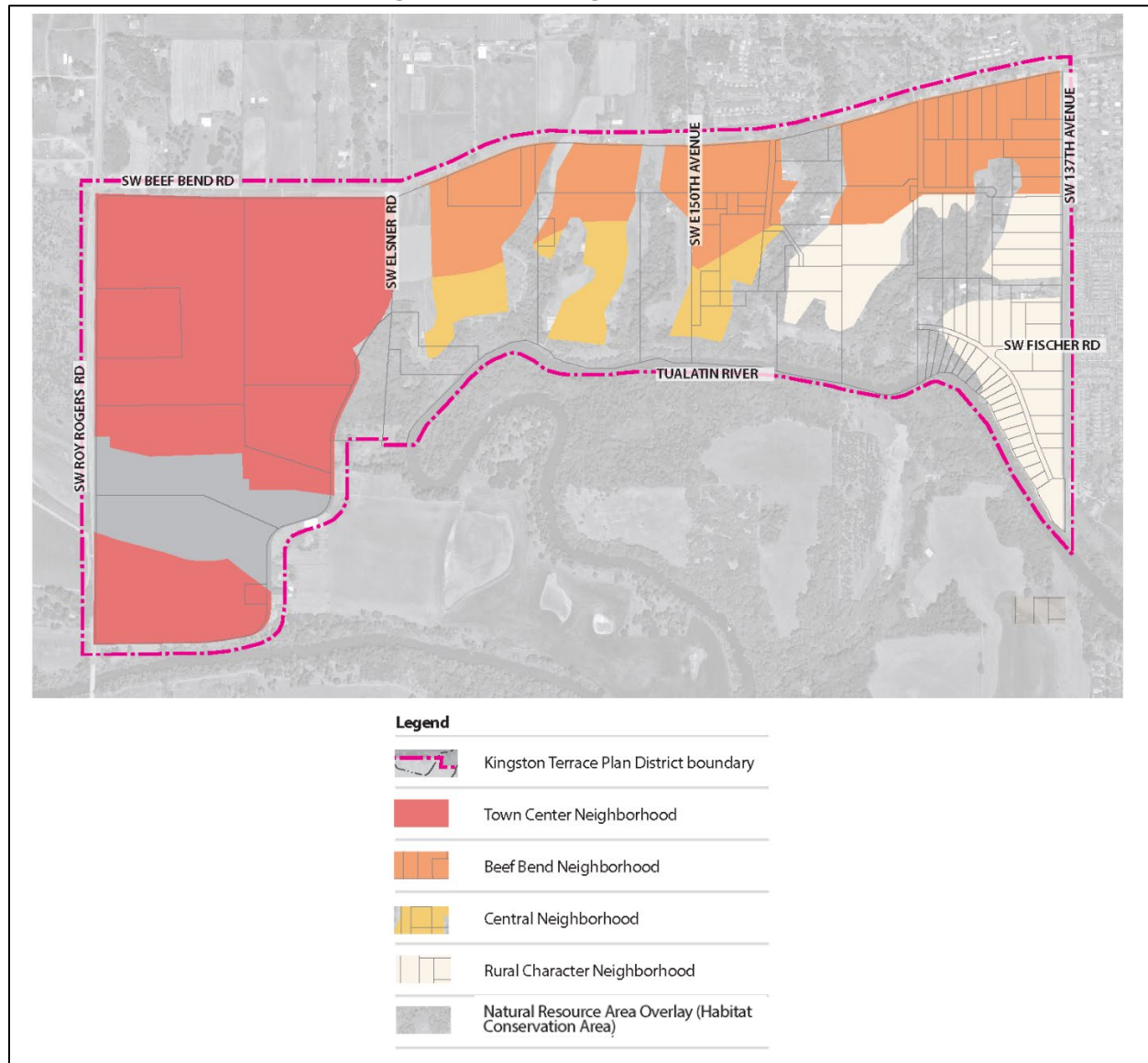
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Standard	Code Section	
Neighborhood Circulation	16.212	Applies as modified by Section 16.114.120

16.114.030 Neighborhood Zones

- A. Figure 16.114-2 illustrates the general boundaries of the Kingston Terrace Town Center (KTTC), Beef Bend Neighborhood (KTBB), Central Neighborhood (KTC), Rural Character Neighborhood (KTRC), and Natural Resource Area Overlay district boundaries.

Figure 16.114-2 Neighborhood Zones



16.114.040 Uses

- A. Uses Allowed Outright (Y). Allowed uses in the Kingston Terrace District are shown in Table 16.114-2. A permitted use is a use which is allowed outright but is subject to all applicable provisions of

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this title. If a use is not listed as a permitted use, as shown in Table 16.114-2, it may be held to a similar unlisted use under the provisions of Chapter 16.82.

- B. Conditional Uses (CU). Conditional uses in the Kingston Terrace District are shown in Table 16.114-2. Conditional uses are uses which are subject to a discretionary decision by the Planning Commission. The approval criteria are set forth in Chapter 16.156. If a use is not listed as a conditional use, it may be held to be a similar unlisted use under the provisions of Chapter 16.82.
- C. Prohibited Uses (N). Prohibited uses in the Kingston Terrace District are shown in Table 16.114-2. Legally established uses and development which existed at the time these requirements were adopted and would otherwise be prohibited, are subject to additional regulations in Chapter 16.160, Nonconforming Situations.

Table 16.114-2 Uses in Kingston Terrace District

Uses	Town Center Neighborhood	Beef Bend Neighborhood	Central Neighborhood	Rural Character Neighborhood
Dwelling, single-family detached ¹	Y	Y	Y	Y
Dwelling unit, accessory ¹	Y	Y	Y	Y
Dwelling, single-family attached ¹	Y	Y	Y	Y
Duplex, Triplex, Fourplex ¹	Y	Y	Y	Y
Cottage cluster ^{1, 2}	Y	Y	Y	Y
Dwelling, multi ¹	Y	Y	Y	CU
Manufactured home ¹	Y	Y	Y	Y
Retail sales and service excluding drive-through facilities ³	Y	Y	N	N
Retail sales and service with drive-through facilities	N	N	N	N
Office	Y	Y	N	N
Motel ⁴	Y	CU	N	N
Quick vehicle servicing ⁵	Y	N	N	N
Live-work unit ⁶	Y	Y	Y	Y
Family care	Y	Y	Y	Y
Residential facility	Y	Y	Y	Y
Adult day care (family care)	Y	Y	Y	Y
Religious assembly ⁷	Y	Y	CU	CU

1 As defined by 16.24.030 (C)

2 Cottage clusters are subject to the development and design standards in 16.84.060 - Cottage clusters.

3 Retail sales and service uses are subject to Additional Requirements of Section 16.114.040.D and liquor license review according to Chapter 5.05 of this Title.

4 Subject to approval standards of Section 16.156.060.E.

5 Subject to approval standards of Section 16.156.060.I.

6 Subject to Chapter 16.172 approval criteria and standards.

7 Subject to approval standards of Section 16.156.060.J.

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Uses	Town Center Neighborhood	Beef Bend Neighborhood	Central Neighborhood	Rural Character Neighborhood
Schools ⁸	Y	CU	CU	CU
Community services ⁹	CU	CU	CU	CU
Public safety facility ¹⁰	Y	Y	CU	CU
Hospital ¹¹	Y	Y	CU	CU
Utilities ¹²	CU	CU	CU	CU
Parks and open space ¹³	Y	Y	Y	Y

D. Outdoor activities, storage, and display associated with an approved retail and service use may be permitted when the retail and service uses comply with:

1. Pedestrian, bicycle, wheelchair, and motor vehicle access to and within the site is not impeded in any way;
2. The outdoor storage and display is in conformity with any conditions of development permit or building permit approval;
3. The outdoor storage and display satisfied all relevant provisions of this title and other applicable requirements of this code; and
4. Outdoor speakers (i.e., audio speakers, amplified sound, etc.) may be used provided sound levels comply with Section 8.04.130 of the King City Municipal Code.

16.114.050 Density and Dimensional Standards

- A. The minimum net density for development in the Kingston Terrace District is noted in Table 16.114-3.
- B. Net Density is defined as gross area less streets (public and private), parks and open space, storm facilities, natural resources, and uses that are not residential (i.e., Clean Water Services (CWS) pump station and area designated for municipal uses). It is represented as numbers of dwelling units per net acre.

Table 16.114-3 Density Requirements Per Neighborhood

	Town Center	Beef Bend Neighborhood	Central Neighborhood	Rural Character Neighborhood
Minimum net density assigned to each development (dwelling units per net acre)	22	18	10	8
Minimum number of units that must be accommodated by each neighborhood	1,870	1,260	350	320

8 Subject to approval standards of Section 16.156.060.L.

9 Subject to approval standards of Section 16.156.060.A.

10 Subject to approval standards of Section 16.156.060.H.

11 Subject to approval standards of Section 16.156.060.C.

12 Subject to approval standards of Section 16.156.060.N.

13 Subject to approval standards of Section 16.114.110.

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	Town Center	Beef Bend Neighborhood	Central Neighborhood	Rural Character Neighborhood

- C. The dimensional standards for residential use type development in the Kingston Terrace District is noted in Table 16.114-4.

Table 16.114-4 Dimensional Standards¹⁴

Dimensional Standards	Town Center	Beef Bend Neighborhood	Central Neighborhood	Rural Character Neighborhood
Residential Use Types				
Minimum lot size, in square feet ¹⁵	1,500 ¹⁶	1,500 ¹⁶	2,400	2,400
Minimum lot width, in feet	20 ¹⁷	20 ¹⁷	20 ¹⁷	20 ¹⁷
Minimum lot depth, in feet	45	45	60	60
Front yard setback, front yard to residential building, minimum/maximum, in feet	10/26	10/26	10/26	10/26
Front yard setback, to porch, minimum/maximum, in feet	5/15	5/15	6/15	6/15
Front yard setback, to garage, minimum, in feet	18	18	18	18
Corner lot setback—front yard/side yard, minimum, in feet	8	8	8	8
Corner lot setback—garage, minimum, in feet	18	18	18	18
Side yard, interior—minimum, in feet ¹⁸	0 or 3	0 or 3	0 or 3	5 ¹⁹
Side yard – to public street, minimum, in feet	5	5	5	5
Rear yard—to residential building, minimum, in feet ²⁰	10	10	10	10

14 In addition to the setback standards of Table 16.114-4, building setbacks for each type of structure must comply with the current Oregon Building Code.

15 Minimum lot size for residential land use types.

16 The minimum lot size for “Dwelling, single-family attached, Duplex, Triplex, and Fourplex” land use types may be reduced to 1,000 square feet.

17 The minimum lot width for “Dwelling, single-family attached, Duplex, Triplex, and Fourplex” land use types may be reduced to 15 feet.

18 There is no minimum setback for zero foot setback buildings. In all cases, zero foot setback buildings shall either: (1) be attached at the property line; or (2) have a total minimum separation of 6 feet between buildings.

19 Side yard of 5 feet for a single-story structure, and 10 feet for two-story structures.

20 Zero feet for a detached accessory dwelling unit or building less than or equal to 18 feet in height.

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Dimensional Standards	Town Center	Beef Bend Neighborhood	Central Neighborhood	Rural Character Neighborhood
Rear yard—to garage entry on alley, minimum, in feet ²¹	0-6	0-6	0-6	0-6
Rear yard – to residential building or covered patio on alley, minimum in feet	3	3	3	3
Dwelling, multi, Mixed-Use, and Commercial Use Types				
Minimum lot size, in square feet	None	None	N/A	N/A
Minimum lot width, in feet	None	None	N/A	N/A
Minimum lot depth, in feet	None	None	N/A	N/A
Front setback, minimum/ maximum, in feet	0/20	0/20	0/20 ²²	N/A
Side yard, interior – minimum, in feet	0 ²³	0 ²³	0 ^{22, 23}	N/A
Rear setback, minimum, in feet	0 ²³	0 ²³	0 ^{22, 23}	N/A
All Use Types				
Maximum building height, in feet	65	45	35	35
Maximum height, accessory structures and detached accessory dwellings, in feet	25	25	25	25
Maximum coverage of buildings and impervious surfaces ²⁴	90%	90%	90%	80%

16.114.060 Design Purpose, Applicability, and Standards

- A. Design purpose. Site design standards are intended to facilitate the development of attractive buildings that encourage multimodal transportation. They encourage good site design, which contributes to livability, safety, and sustainability; helps create a stronger community; and fosters a quality environment for residents and neighbors. Site design shall meet the following objectives:
 1. Livability - Development should contribute to a livable neighborhood by incorporating visually pleasing design, minimizing the impact of vehicles, emphasizing pedestrian and bicycle connections, and providing public and private open spaces for outdoor use.
 2. Compatibility - Development should have a scale that is appropriate for the surrounding neighborhood and maintains the overall character of the neighborhood.

²¹ Zero to 6 feet or greater than 18 feet to a garage entrance to an alley.

²² Applicable to Dwelling, multi in Central Neighborhood. Mixed-use and commercial not permitted in Central Neighborhood.

²³ Minimum 20 foot setback when abuts residential use.

²⁴ Maximum coverage dimensional standards do not apply to Cottage Clusters.

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3. Safety and Functionality - Development should be safe and functional, by providing visibility into and within a mixed-use or residential development and by creating a circulation system that prioritizes bicycle and pedestrian safety.
 4. Sustainability - Development should incorporate sustainable design and building practices, such as energy conservation, preservation of trees and open space, quality building materials, and alternative transportation modes.
- B. Development in the Kingston Terrace District requires a minimum level of design. These design standards are intended to promote attention to detail, human-scale design, street visibility, and privacy of adjacent properties, while affording flexibility to use a variety of architectural styles. Development in Kingston Terrace District should integrate the following design objectives:
1. Articulation. Buildings shall incorporate horizontal and/ or vertical design elements that break up façades into smaller planes.
 2. Eyes on the street/ transparency. A certain percentage of the area of each facade shall be windows or entrance doors to promote pedestrian safety and use.
 3. Main entrance. Buildings shall include a primary entrance that complies with the standards for location, orientation, and visibility.
 4. Detailed design. Buildings shall include design features that enhance the visual character of the community and take into account the surrounding neighborhoods, provide permanence, and create a sense of place.
 5. Transitional Space. Ground floor residential dwellings shall include an area of transition between the public realm of the right-of-way (or tract or easement) and the front door or porch.
 6. Private and common open space. Developments shall ensure opportunities for relaxation or active recreation.
- C. Applicability.
1. The following set of “fundamental” design standards are applicable to development within the Kingston Terrace District:
 - a. Articulation,
 - b. Eyes on the street or transparency,
 - c. Main entrance,
 - d. Detailed design,
 - e. Transitional space,
 - f. Private open space, and
 - g. Common open space.

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2. Applicability concept. The design standards apply to building types as noted in Table 16.114-5. Buildings that meet the applicability provisions in Table 16.114-5 shall incorporate the following design standards. The graphics provided are intended to illustrate how development could comply with these standards and should not be interpreted as requiring a specific architectural style. An architectural feature may be used to comply with more than one standard.
3. Table 16.114-5 identifies where building design standards apply to development in the Kingston Terrace District. These design standards shall be applied in addition to the dimensional requirements in Section 16.114.050.

[1] Applicable to the entire site.

[2] Applicable to building elevations facing public rights-of-way. Development with multiple street frontages must comply with the design standard requirements along the higher street classification; except for, the main entrance design standards may apply to the elevation fronting a lower street classification if on-street parking is not available on the higher classification street. In this case, one additional detailed design element will be provided on the building elevation fronting the higher street classification.

i. Dwelling, multi, mixed-use, and commercial developments shall comply with the on-site bicycle and pedestrian neighborhood circulation standards of Section 16.114.120.H.

[3] Applicable to building elevations containing a primary entrance.

[4] Applicable to building elevations facing public parks and open spaces.

[5] Applicable to dwellings in a cluster or grouping, either facing a shared open space (e.g. a common courtyard) or a pedestrian path.

[6] Applicable to ground floor dwellings with a primary entrance with access from the street or shared open space (e.g. a common courtyard), when the primary entrance is located:

i. Within 10 feet of the street-facing property line, or

ii. Within the front yard setback, or

iii. Within 10 feet of a shared open space common tract or easement.

Table 16.114-5 Applicable Building Design Standards

Design Standard	Applicability					
	Dwelling, single-family detached	Dwelling, single-family attached, Duplex, Triplex, Fourplex	Dwelling, multi	Mixed-use Building or Development	Commercial Building or Development	Municipal Building or Development
Articulation	[2][3][4]	[2][3][4]	[2][3][4]	[2][3][4]	[2][3][4]	[2][3][4]

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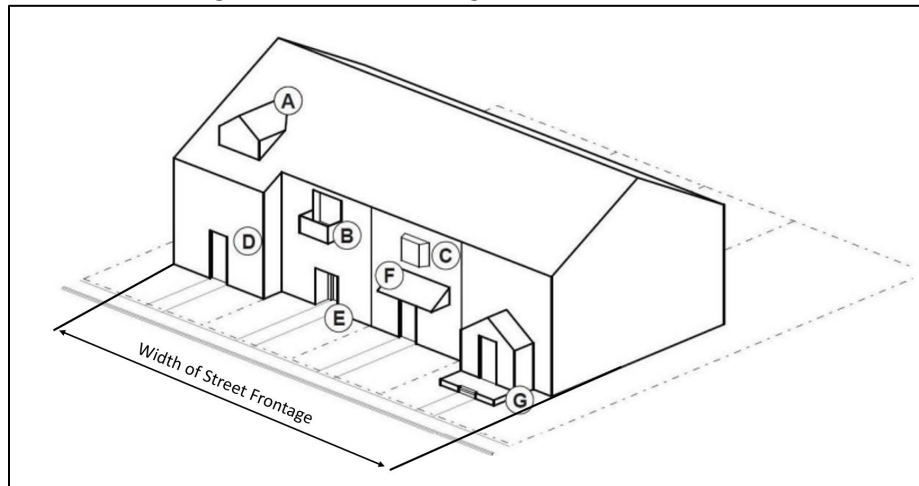
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Design Standard	Applicability					
	Dwelling, single-family detached	Dwelling, single-family attached, Duplex, Triplex, Fourplex	Dwelling, multi	Mixed-use Building or Development	Commercial Building or Development	Municipal Building or Development
Eyes on the street/ Transparency	[2][3][4]	[2][3][4]	[2][3][4]	[2][3][4]	[2][3][4]	[2][3][4]
Main entrance	[2][3][4]	[2][3][4]	[2][3]	[2][3]	[2][3]	[2][3]
Detailed design	[2][3][4]	[2][3][4]	[2][3]	[2][3]	[2][3]	[2][3]
Transitional space	[2][3][4][5][6]	[2][3][4][5][6]	[2][3][4][5][6]	NA	NA	NA
Private open space	NA	NA	[1]	[1]	NA	NA
Common open space	NA	NA	[1]	[1]	NA	NA

D. Design Standards:

1. Articulation. Buildings shall incorporate design elements that break up façades into smaller planes. See Figure 16.114-3 for illustration of articulation elements:

Figure 16.114-3 Building Articulation Elements



- (A) A gabled dormer.
- (B) Balcony that is at least 2 feet deep and accessible from an interior room.
- (C) Bay window that extends at least 2 feet from façade.
- (D) A façade offset that is recessed by at least 2 ft deep and 6 ft long.
- (E) Recessed entryway that is a minimum of 4 feet deep.
- (F) A covered entryway that is a minimum of 4 feet deep.
- (G) A porch that is at least 5 ft deep.

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- a. For buildings with 60 feet of street frontage or less, a minimum of 1 design element shall be provided along the street-facing façades.
 - b. For buildings with over 60 feet of street frontage, at least 1 design element shall be provided for every 30 feet of street frontage.
 - c. Design elements shall be distributed along the length of the façade so that there are no more than 30 feet between 2 elements.
 - d. For buildings with less than 30 feet of street frontage, the building articulation standard is not applicable.
2. Eyes on the street. At least 20 square feet of facades fronting a public street, or public park or open space shall include windows or entrance doors on Dwelling, single-family detached and attached, Duplex, Triplex, Fourplex, and Dwelling, multi. See Figure 16.114-4 for illustration of eyes on the street.

Figure 16.114-4 Eyes on the Street



- a. Windows used to meet this standard shall have a maximum windowsill height of 4 feet above finished floor elevation.
- b. Windows used to meet this standard shall be transparent and allow views from the building to the street or open space. Glass blocks and privacy windows in bathrooms do not meet this standard.
- c. Window area is considered the entire area within the outer window frame, including any interior window grid.
- d. Doors used to meet this standard shall face the street or be at an angle of no greater than 45 degrees from the street.

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- e. Door area is considered the portion of the door that moves. Door frames do not count toward this standard.
- 3. Transparency.
 - a. On mixed-use, commercial, and municipal buildings with ground floor commercial, at least 35 percent of the ground floor elevation must be permanently treated with windows, display areas, or glass doorway openings. See Figure 16.114-5 for illustration of transparency.

Figure 16.114-5 Transparency



- i. For the purpose of this standard, window(s) necessary to meet this standard shall be measured from the minimum sill height above finished first floor elevation which is 2 feet for non-residential uses and 4 feet for residential uses.
- b. Design of Dwelling, multi, mixed-use, and commercial buildings shall comply with the building frontage, ground floor height, and weather protection standards of Table 16.114-6 to support a pedestrian-friendly environment.

Table 16.114-6 Dwelling-multi, Mixed-use, and Commercial Building Design Standards

Design Standard	Primary Entrance Location		
	River Terrace Boulevard Extension	Fischer Road Extension	New East/ West Neighborhood Route
Building Frontage Minimum	60%	60%	40%
Minimum Ground Floor Height ²⁵	14 ft.	14 ft.	14 ft.
Weather Protection	20 sf. Minimum Protected Area Min. 4 ft. Horizontal Dimension and Min. 9 ft. Vertical Clearance	No requirement	No requirement

- i. Lot frontages that contain dwelling-multi, mixed-use, and commercial development shall locate the buildings so that at least 60 percent is occupied by the building as illustrated in Figure 16.114-6.

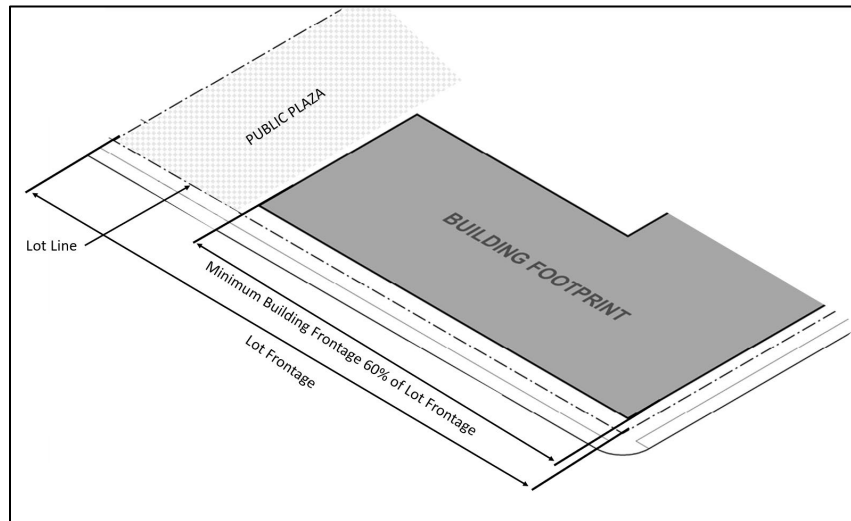
²⁵ Minimum ground floor height standard shall be limited to commercial uses on the ground floor.

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- ii. Weather protection shall be provided with a recessed entryway, an awning or other projected element, or a combination of those methods.

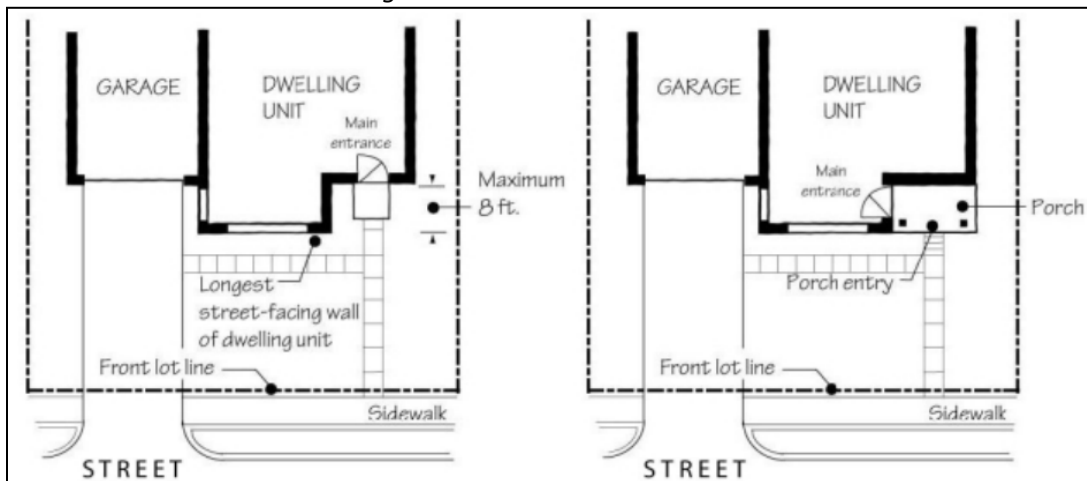
Figure 16.114-6 Building Frontage Minimum



4. Main entrance.

- a. Elevation(s) of dwelling-multi, mixed-use, or commercial buildings that contain a primary building entrance or multiple tenant entrance shall be designed to comply with the standards of Table 16.114-6.
- b. Residential dwellings shall have at least 1 primary entrance that meets both of the following standards. See Figure 16.114-7 for illustration of main entrances.

Figure 16.114-7 Main Entrances



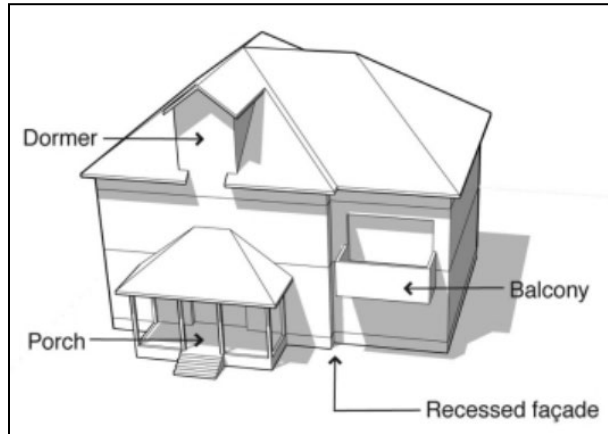
- c. Be no further than 8 feet behind the longest street-facing wall of the building.
- d. Face the street, be at an angle of up to 45 degrees from the street, or open onto a porch. If the entrance opens onto a porch, the porch shall meet all of the following additional standards:

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- i. Be at least 25 square feet in area with a minimum 4-foot depth,
 - ii. Have at least 1 porch entry facing the street,
 - iii. Have a roof that is no more than 12 feet above the floor of the porch, and
 - iv. Have a roof that covers at least 30 percent of the porch area.
5. Detailed design. Buildings shall include at least 5 of the following features. See Figure 16.114-8 for illustration of detailed design elements.

Figure 16.114-8 Detailed Design



- a. Covered porch with an area of at least 25 square feet with a minimum dimension of 4 feet.
- b. Recessed entry area at least 2 feet deep, as measured horizontally from the face of the main building façade, and at least 5 ft wide.
- c. Offset on the building face of at least 16 inches from 1 exterior wall surface to the other.
- d. Dormer that is at least 4 feet wide and integrated into the roof form.
- e. Roof eaves with a minimum projection of 12 inches from the intersection of the roof and the exterior walls.
- f. Gable roof, hip roof, or gambrel roof design
- g. One roof pitch of at least 500 square feet in area that is sloped to face the southern sky and has its eave line oriented within 30 degrees of the true north/south axis.
- h. Roof line offsets of at least 2 feet from the top surface of 1 roof to the top surface of the other.
- i. Tile or wood shingle roofs.
- j. Horizontal lap siding between 3 to 7 inches wide (the visible portion once installed). The siding material may be wood, fiber-cement, or vinyl.
- k. Brick, cedar shingles, stucco, or other similar decorative materials covering at least 40 percent of the street-facing façade.

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- l. Window trim around all windows at least 3 inches wide and 5/8 inches deep.
 - m. Window recesses, in all windows, of at least 3 inches as measured horizontally from the face of the building façade.
 - n. Balcony that is at least 3 feet deep, 5 feet wide, and accessible from an interior room.
 - o. Bay window at least 2 feet deep and 5 feet wide.
 - p. Attached garage width, as measured between the inside of the garage door frame, of 35 percent or less of the length of the street-facing façade.
6. Transitional space. Ground floor dwellings shall include an area of transition between the public realm of the right-of-way (or tract or easement) and the front door or porch. The transitional space design standard may be met either vertically, in accordance with Section 16.114.060.C.6.a, or horizontally, in accordance with Section 16.114.060.C.6.b.
- a. A vertical transition shall be an uncovered flight of stairs that leads to the front door or front porch of the dwelling. The stairs shall rise at least 3 feet, and not more than 8 feet, from grade. The flight of stairs may encroach into the required front yard, and the bottom step shall be at least 4 feet from the front lot line.
 - b. A horizontal transition shall be a covered porch with a depth of at least 6 feet. The porch may encroach into the required front yard, but it shall be at least 4 feet from the front lot line.
7. Private open space. All dwelling, multi and mixed-use buildings shall provide private open space for each residential dwelling, such as a balcony or patio, that meets the following standards:
- a. Each space shall be attached to and directly accessible from an individual residential unit; and
 - b. Each private open space must be a minimum of 48 square feet in area and a minimum of five feet in width and depth; and
 - c. Additional common open space above the required minimum may substitute for some or all of the required private open space at a 1:1 ratio.
8. Common open space. All dwelling, multi and mixed-use buildings shall provide common open space area as follows:
- a. Buildings shall provide at least 200 square feet of common open space per residential dwelling unit.
 - b. Common open space shall be no smaller than 640 square feet in area, shall not be divided into areas smaller than 640 square feet, and shall have minimum length and width dimensions of 20 feet.
 - c. The area is open and available to the public or for the common use of residents and/or building tenants.

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- d. The area contains seating and/or recreation facilities.
- e. Landscaping is provided consistent with the character and function of the space.
- f. For the purposes of this Section, vehicular circulation areas and parking areas, unless provided as part of a shared courtyard, shall not be considered common open space.
- g. Units located within ¼-mile from a public park or linear green open space provided as part of the development are exempt from this requirement.
- h. Common open space standards do not apply to dwelling, single-family attached or detached, duplex, triplex, fourplex, or cottage clusters.

16.114.070 The Regulating Plan

A. Purpose and description

- 1. The Regulating Plan ensures consistency with goals and requirements of the Kingston Terrace Master Plan and King City's Transportation System Plan.
- 2. The Regulating Plan, Figure 16.114-9, directs development in Kingston Terrace providing an illustrative bridge between King City's Transportation System Plan, the Kingston Terrace Master Plan, and applicable regulations of the Community Development and Zoning Code (CDC). The Regulating Plan identifies:
 - a. Location of Natural Resource Area Overlay (Habitat Conservation Area),
 - b. The location of Neighborhood Zones, and
 - c. Location of all Backbone Streets, identification of street classifications, and type of intersections.

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Figure 16.114-9 Kingston Terrace Regulating Plan

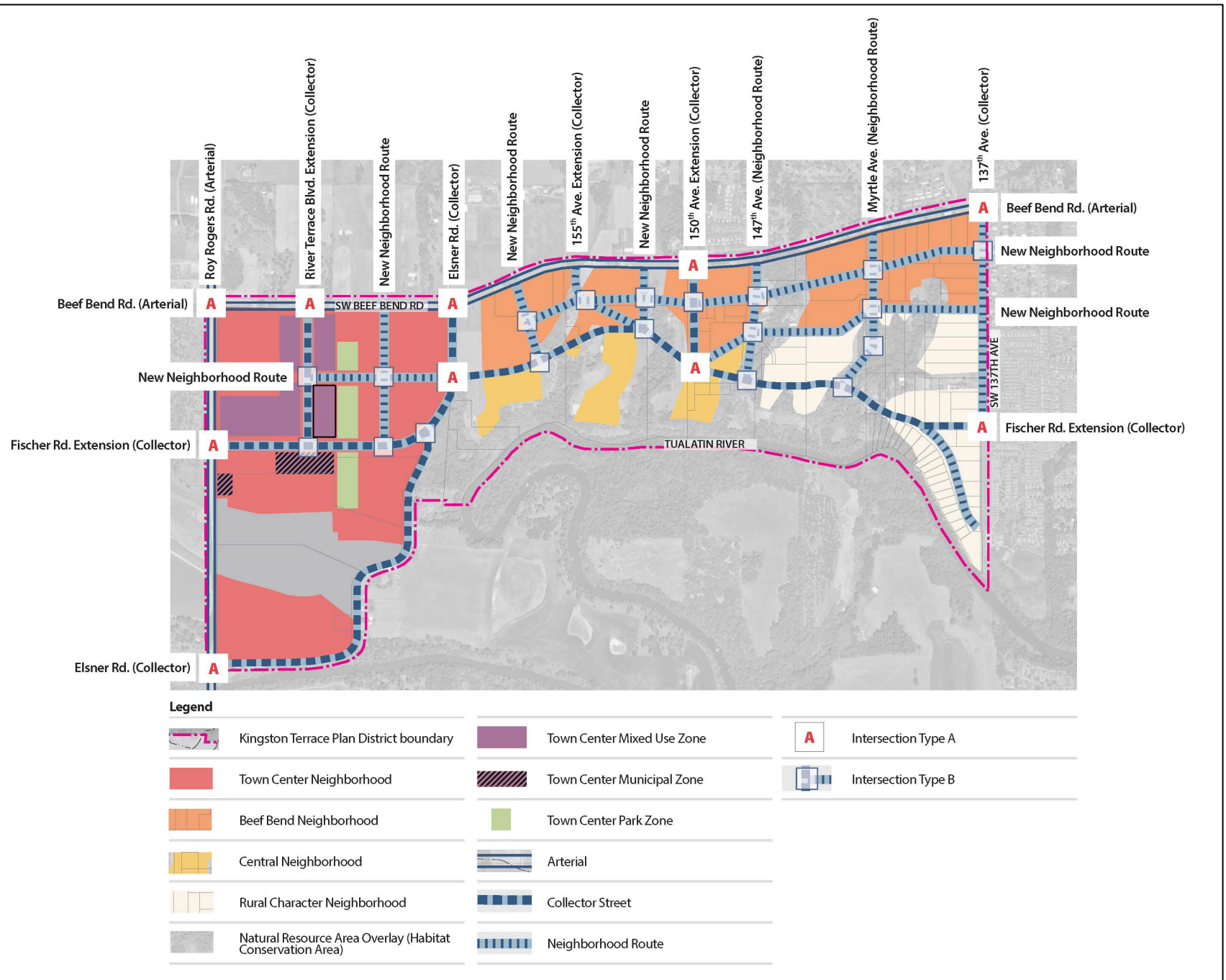


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- B. Table 16.114-7 identifies the applicable sections of this title that implement each of the 4 planning frameworks identified through the Kingston Terrace master planning process.

Table 16.114-7 Implementation of Kingston Terrace Master Plan Frameworks

Planning Framework	Applicable Section of CDC
Natural Systems	16.114.080 – Kingston Terrace District Goal 5 Safe Harbor Review 16.114.090 – Upland Wildlife Habitat Conservation Areas 16.140 - Floodplain and Drainage Hazard Areas
Land Use	16.114.030 – Neighborhood Zones 16.114.050 – Density and Dimensional Standards 16.114.060 – Design Standards 16.114.100 – Neighborhood Locations and Primary Land Uses 16.114.110 – Parks, Open Space and Trails
Mobility	16.114.120 – Neighborhood Circulation
Public Utilities and Services	16.114.130 – Provision of Adequate Public Facilities

16.114.080 Kingston Terrace District Goal 5 Safe Harbor Review

- A. Purpose. The purpose of Section 16.114.080 is to establish the Local Wetlands Inventory (LWI) for properties within the Kingston Terrace District consistent with OAR 660-023-0100 and for the implementation a safe harbor ordinance to protect significant wetlands.

The regulations of this section are intended to implement the goals and policies of the comprehensive plan and the Statewide Planning Goal 5 safe harbor protection standards (Oregon Administrative Rules, Division 23) for wetlands on properties included within the Kingston Terrace District; to protect King City's wetland areas, thereby protecting the hydrologic and ecologic functions these areas provide for the community; to protect fish and wildlife habitat; to protect water quality and natural hydrology; to control erosion and sedimentation, and to reduce the adverse effects of flooding; to protect the amenity values and educational opportunities of King City's wetlands as community assets; and to improve and promote coordination among local, state, and federal agencies regarding development activities near wetlands. These regulations supplement other requirements enforced by Clean Water Services (CWS) and Oregon Department of State Lands (DSL).

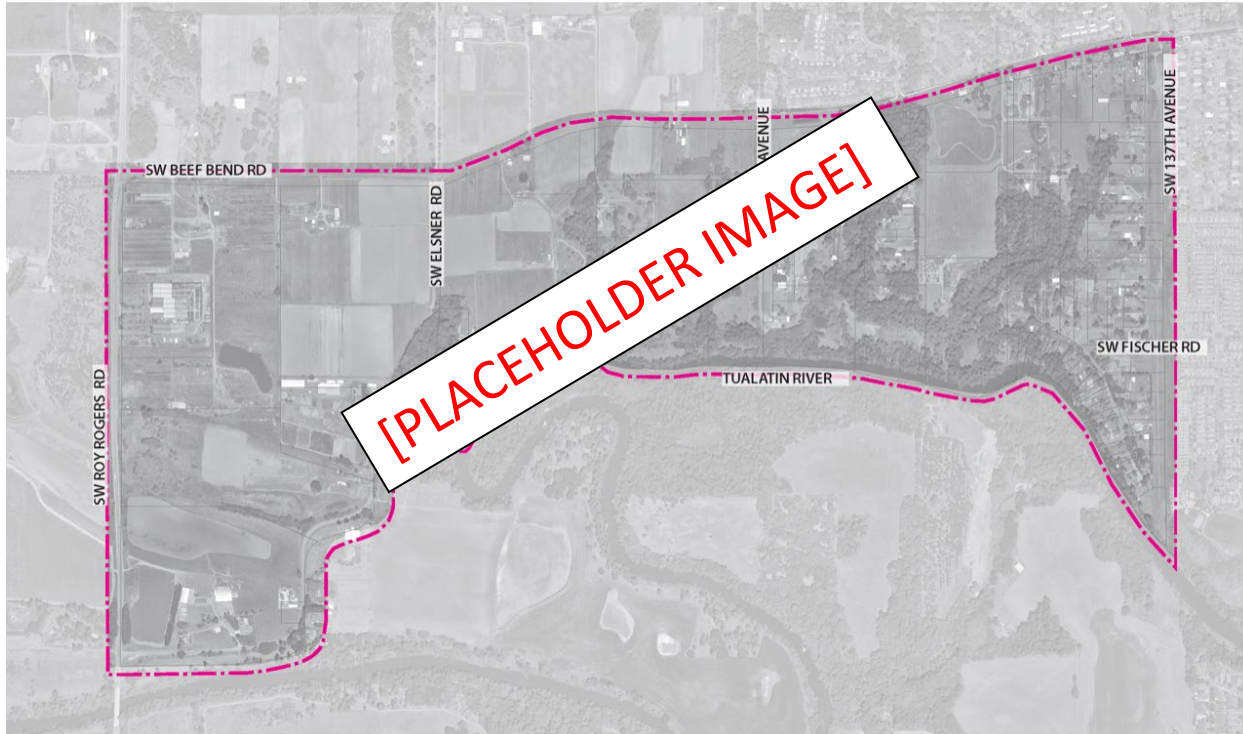
- B. Applicability. The regulations of this chapter shall be applicable to all properties included within the Kingston Terrace planning area and identified in Figure 16.114-1. This area contains approximately 528-acres, located south of Beef Bend Road, east of Roy Rogers Road, and north of the Tualatin River between 137th Avenue and Roy Rogers Road. This area is shown on the comprehensive plan and zoning maps.

Any development proposed to be located on properties that contain all or part of a locally significant wetland and identified in Figure 16.114-10, must comply with these

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regulations. Where the provisions of this chapter conflict with any other provisions of this title, local standards, or state and federal requirements, the more restrictive requirements shall apply.

Figure 16.114-10 Kingston Terrace Wetland Inventory [PLACEHOLDER]



- C. Locally Significant Wetlands. The areas identified on Figure 16.114-10 are designated as “locally significant wetlands” pursuant to OAR 141-086-0350 and are subject to the Kingston Terrace Wetland Safe Harbor provisions in Section 16.114.080(D).

The provisions of this section shall be used to determine whether applications for development permits may be approved, approved with conditions or denied. The map entitled Kingston Terrace Wetland Inventory (Figure 16.114-10) shall be consulted to determine site locations of Goal 5 resources and locally significant wetlands.

D. Administration.

1. Goal 5 safe harbor review shall be conducted concurrently with any other related land use application required by the city for the proposed development.
2. Unless otherwise stated, King City shall apply the provisions of Section 16.114.080 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 manager shall serve as the approving authority.

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3. Variance applications described in Chapter 16.164 shall be administered and reviewed as a planning commission decision in accordance with Article II of this title using the applicable approval criteria in Section 16.164.050.
- E. Determination of Locally Significant Wetlands. King City shall determine which wetlands are locally significant in accordance with rules adopted by Oregon Department of State Lands (DSL OAR 141-086-3000). Locally significant wetlands are identified in Figure 16.114-10.
- F. Submittal requirements. As part of the development permit for any use or activity that is located on a lot that includes a locally significant wetland identified in Figure 16.114-10, an application for a Goal 5 safe harbor review must be prepared and submitted in compliance with this section. An application for a Goal 5 safe harbor review shall be submitted on forms prepared by the City.

In addition to the form and information required in Section 16.44.030, an applicant shall submit the following:

1. Copies of the site plan, number to be determined at the pre-application conference, and necessary data or narrative, which explains how the development conforms to the applicable criteria, and:
 - a. The site plans and required drawings, prepared by a registered civil engineer, shall be drawn on sheets preferably not exceeding twenty-four inches by thirty-six inches;
 - b. The scale for the site plan shall be an engineering scale of not less than one inch equals fifty feet;
 - c. All drawings of structures elevations, prepared by a registered civil engineer or architect, shall be a standard architectural scale, being one-fourth inch or one-eighth inch equals one foot;
 - d. 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.
 - e. Existing and proposed topography within the property boundaries using the following contour intervals:
 - i. For slopes of five percent or less, contour intervals not more than one foot,
 - ii. For slopes greater than five percent and up to and including ten percent, contour intervals not more than two feet, and
 - iii. For slopes greater than ten percent, contour intervals not more than five feet;
 - f. 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 wetlands, a wetland determination report may be provided in place of the delineation. No delineation is required if the proposed development is located 25 feet or more from a wetland identified on the LWI map or a determination, but not an approved delineation that is still valid. (Please note that compliance with state and federal wetland regulations for all wetlands,

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mapped or unmapped, remains the legal responsibility of the landowner.) [Note: This is not a buffer or setback, it is an allowance for LWI map inaccuracy when the expense of a precise delineation may not be warranted.]

- g. Current photos of site conditions shall be provided to supplement the above information.
 - h. Verification that the application packet has been submitted to the Oregon Department of Fish and Wildlife for review and comment if mitigation is being proposed with development.
 - 2. This information may be submitted with or made part of a site plan or grading plan for the proposed development; and
 - 3. The required fee.
- G. Permitted uses and activities. The following uses and activities are permitted within the wetland protection areas identified in Figure 16.114-10:
 - 1. Any use, sign, or structure, and the maintenance thereof, that was lawfully existing on the date of adoption of this ordinance [insert date], 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.
 - 2. The following activities and maintenance thereof are allowed within a wetland protection area, provided that any applicable local, state, or federal permits are secured:
 - a. Wetland restoration and rehabilitation activities;
 - b. Restoration and enhancement of native vegetation;
 - c. Cutting and removal of trees which pose a hazard to life or property due to threat of falling;
 - d. Removal of non-native vegetation, if replaced with native plant species at similar coverage or density, so that native species are dominant; and
 - e. Normal farm practices such as grazing, plowing, planting, cultivating and harvesting, that meet the following criteria and limitations:
 - i. The farm practices were in existence or occurring on the property on the date of adoption of the provisions herein.
 - ii. 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.
 - iii. Normal farm practices do not include new or expanded structures, roads, or other facilities involving placement of fill material, excavation, or new drainage measures.
 - f. Maintenance of existing drainage ways, ditches, or other structures, to maintain flow at original design capacity and mitigate upstream flooding, provided that management

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practices avoid sedimentation and impact to native vegetation, and any spoils are placed in uplands.

- g. 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 Chapter 16.160 – Nonconforming Situations.
- h. 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 Chapter 16.160 – Nonconforming Situations.
- i. Emergency stream bank stabilization to remedy immediate threats to life or property.
- j. 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.
- k. New fencing may be permitted by the city manager, in accordance with this title, where the applicant demonstrates that the following criteria are satisfied:
 - i. The fencing does not affect the hydrology of the site;
 - ii. The fencing does not present an obstruction that would increase flood velocity or intensity;
 - iii. Fish habitat is not adversely affected by the fencing; and
 - iv. The fencing is the minimum necessary to achieve the applicant's purpose and complies with applicable requirements in this title. Applications for new fencing within a wetland protection area shall contain a scale drawing that clearly depicts the wetland area boundary.
- l. Except as allowed in Section 16.114.080 G., the following activities are prohibited within a wetland protection area:
 - i. Placement of new structures or impervious surfaces;
 - ii. Excavation, drainage, grading, fill or removal of vegetation except for fire protection purposes or removing hazard trees;
 - iii. Expansion of area of landscaping with non-native species, such as a lawn or garden, into the wetland protection area;
 - iv. Disposal or temporary storage of refuse, yard debris, or other material;
 - v. Discharge or direct runoff of untreated stormwater;
 - vi. Uses not allowed in the list of permitted uses of the underlying zone; and
 - vii. Any use not specifically allowed in Section A. (XXX);
 - viii. Streets, roads and paths; and
 - ix. Drainage facilities, utilities and irrigation pumps.
- m. Other wetlands within the Kingston Terrace District determined to not be locally significant may still be regulated by local, state, or federal agencies which require local, state, or federal permits before such alterations occur

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- H. 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:
 - 1. The proposed project complies with the provisions of this section.
 - 2. Except as otherwise allowed in this section, 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.
 - 3. Except as otherwise allowed in this section, the proposed project will not result in development or filling of land within 25 feet of the boundary of wetland that has been identified only on the LWI map or by a determination, but not an approved delineation; and
 - 4. The applicable provisions of Chapter 16.140 – Floodplain and Drainage Hazard Areas are satisfied.
- I. Conservation and maintenance of wetland protection areas. When approving applications for Land Divisions, Conditional Use Permits, or for Development Plan Review 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:
 - 1. The area shall be protected in perpetuity by a conservation easement recorded on deeds and plats prescribing the conditions and restrictions imposed by the approval authority and any imposed by local, state, or federal permits; or
 - 2. 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 imposed by the approval authority and any imposed by local, state, or federal permits; or
 - 3. 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 imposed by the approval authority and any imposed by local, state or federal permits.
- J. Notification and coordination with state agencies.
 - 1. King City shall notify the Oregon Department of State Lands (DSL) in writing of all applications to King City 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. DSL provides a Wetland Land Use Notification form for this purpose. [See OAR 660-23-100(7); ORS 227.350 for cities].
 - 2. When reviewing wetland development permits authorized under this section, the approving authority shall consider recommendations from the Oregon Department of Fish and Wildlife

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regarding OAR 635-415 "Fish and Wildlife Habitat Mitigation Policy." [Note: Recommendations from ODFW are advisory only].

- K. Variances. The Planning Commission shall be the approving authority for variance applications to the Wetland Protection Area provisions. The procedures of Chapter 16.164 shall be followed for approval of a variance except that the variance criteria of this section shall apply.
 - 1. Hardship Variances. If through application of this ordinance, the property has been rendered not buildable, the applicant may request Hardship Variance. A Hardship Variance may be granted only when the applicant has shown that all of the following conditions exist:
 - a. The applicant has exhausted all other options available under this chapter to relieve the hardship;
 - b. The variance is the minimum necessary to afford relief;
 - c. 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; and
 - d. Loss of vegetative cover shall be minimized.
 - 2. Mapping Error Variances and Corrections. The city manager, 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 Department of State Land (DSL). Delineations approved 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.

16.114.090 Upland Wildlife Habitat Conservation Areas

- A. Purpose. The purpose of this section is to establish procedures and criteria for protection of Habitat Conservation Areas (HCA) in a manner that complies with Section 4 of Title 13 of Metro's Urban Growth Management Functional Plan on properties located within the Kingston Terrace District. The HCAs regulated by this chapter are limited to Class A and B Upland Wildlife Habitat Conservation Areas (Upland HCAs). These regulations are intended to supplement, but not duplicate, other requirements enforced by Clean Water Services (CWS), Oregon Division of State Lands, and federal agencies that may have jurisdiction over natural resources within these HCAs.
- B. Metro upland resource areas. The provisions of this section shall be used to determine whether applications for development permits may be approved, approved with conditions, or denied. The Metro Upland HCAs within the Kingston Terrace District are shown in Figure 16.114-11. A more detailed map entitled Kingston Terrace Class A and B Upland HCAs, which is available at City Hall, shall be consulted to determine site locations of these upland wildlife habitat resources and buffers, which lie outside the purview of CWS, state, and/or federal agencies.
 - 1. Class A Upland HCA. These areas are adjacent to Class I Riparian Corridors as shown in Figure 16.114-11.

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2. Class B Upland HCA. These areas are generally adjacent to Class II Riparian Corridors as shown in Figure 16.114-11.

Figure 16.114-11 Class A and B Upland HCAs

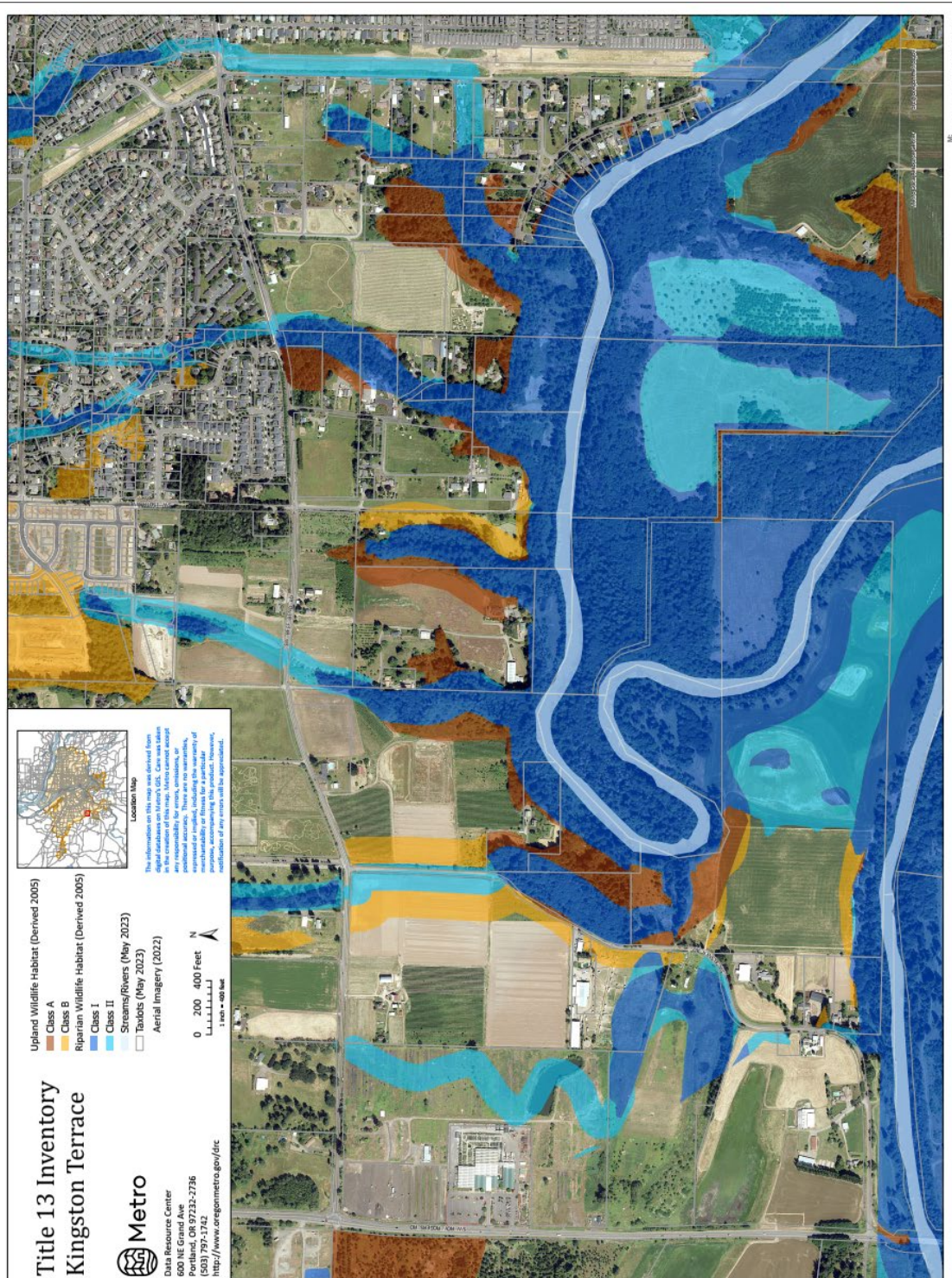


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- C. Applicability of provisions. All development that exceeds the extent and scope of activities and improvements identified in Section 16.114.090.C.1. shall be regulated by this section (Section 16.114.090).
1. Development on properties that contain a mapped Upland HCA identified in the Metro Title 13 Inventory as described in Section 16.114.090.B., must comply with these regulations, except they shall not apply to:
 - a. HCA Class I and II Riparian Corridors that are subject to CWS regulatory authority.
 - b. Metro HCA Class III Riparian Corridors and Metro Class C Upland Wildlife Habitat areas, which are not regulated by this title. In addition, if an on-site assessment results in riparian corridors (i.e., CWS Vegetated Corridor) being mapped within Metro Title 13 Upland HCA, these areas will be regulated per CWS authority.
 - c. Development that is proposed to be greater than 100 feet from an Upland HCA boundary.
 - d. Change of ownership.
 - e. Where a property has received previous approval according to this title, which has not expired, and the development proposed was part of, or contemplated by, the original development application approval, such as a phased development project or subdivision.
 - f. Limited types of development, redevelopment, operations, improvements, and maintenance that are otherwise permitted by this title including the following:
 - i. The alteration, expansion, or replacement of existing structures or related impervious surfaces including, but not limited to, accessory buildings, eave overhangs, exterior building improvement for access and exiting requirements, parking, and outdoor storage provided they will not intrude by more than 1,000 square feet into the Upland HCA in addition to the existing building and impervious surface footprint.
 - ii. Removal of up to 10 percent, but no more than 20,000 square feet of native vegetative cover on a lot or parcel within the mapped Upland HCA, not including trees measuring 6-inch diameter at breast height (DBH) or larger. Removed vegetation shall be replaced as required by Section 16.114.090.I.
 - iii. Maintenance of existing gardens, pastures, lawns, and landscape perimeters, including installation of new irrigation systems within them. Removed vegetation shall be replaced as required by Section 16.114.090.I.
 - iv. Removal of nuisance or prohibited plants as identified on the Metro Native Plant List ([Metro Resolution No. 98-2708 / provide link](#)) and the planting or propagation of plants identified as native plants on the Metro Native Plant List. After such removal, all open soil areas greater than 1,000 square feet must be replanted with native plants on the Metro Native Plan List.

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- v. Maintenance, alteration, repair, and replacement of roads and utilities provided that additional permanent and impervious improvements within an Upland HCA, such as pavement or structures, do not exceed 1,000 square feet in area.
 - vi. Operation, maintenance, and repair of existing manmade water control facilities such as irrigation and drainage ditches, constructed ponds or lakes, wastewater facilities, and stormwater pretreatment facilities.
 - vii. Projects with the sole purpose of restoring or enhancing wetlands, streams, or fish and wildlife habitat areas, provided that the project is part of an approved local, state, or federal restoration or enhancement plan.
 - viii. Removal of dead or diseased trees or trees that pose an imminent hazard to persons or property, provided that a consulting arborist report, or other credible evidence, is provided by the property owner to verify the need for removal.
 - ix. Low-impact outdoor recreation facilities for public use including, but not limited to, multi-use paths, access ways, trails, picnic areas, or interpretive and educational displays and overlooks that include benches and outdoor furniture, provided that the facility meets the following requirements:
 - (a) It contains less than 1,000 square feet of new impervious surface; and,
 - (b) Its trails shall be designed to avoid damage to tree roots and constructed using non-hazardous, pervious materials, with a maximum width of 6 feet.
 - x. Emergency procedures or activities undertaken, which are necessary to remove or abate hazards and nuisances or for the protection of public health, safety, and welfare; provided that such remedial or preventative action must take place within a timeframe too short to allow for compliance with the requirements of this ordinance. After the emergency, the person or agency undertaking the action shall fully restore any impacts to the Upland HCA resulting from the emergency action consistent with the mitigation requirements in Section 16.114.090.I. Hazards that may be removed or abated include those required to maintain aircraft safety.
- g. Street trees that are approved by the city manager.
- 2. Where the provisions of this chapter conflict with any other provisions of this title, CWS standards, or state and federal requirements, the more restrictive requirements shall apply.
 - 3. Development within an Upland HCA in accordance with the provisions of this title shall not result in removal of such developed areas from the Upland HCA and shall not change the applicable Upland HCA category.
- D. Prohibitions.
- 1. The planting of any nuisance or prohibited vegetation identified in the Metro Native Plant List is prohibited within an Upland HCA. New plantings shall either be from the Metro Native Plant

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List or selected by a qualified professional, including, but not limited to an arborist, landscape architect, or biologist.

2. Outside storage of materials exceeding 1,000 square feet is prohibited within an Upland HCA, unless such storage began before the effective date of this ordinance; or, unless such storage is approved during development review in accordance with this title.

E. Administration.

1. Development applications within an Upland HCA that exceed the thresholds in Section 16.114.090.C.1.f shall be administered and reviewed as a Type II City Manager decision in accordance with Article II of this title.
2. Development applications proposed to occur outside of an Upland HCA but within 100 feet of one shall be administered and reviewed as a Type I Administrative decision in accordance with Article II of this title.
3. Upland HCA applications that require related development applications according to this title shall be reviewed in combination. This combined review shall follow either the Type II process per Section 16.114.090.E.1, or the Type III process when the associated application is subject to Planning Commission review as provided in Article II of this title.
4. Adjustments described in Section 16.114.090.J. shall be administered and reviewed in combination with the related development application according to the review procedure required for that application.

F. Submittal requirements. As part of the development permit for any use or activity, which is located on a lot that includes or is within 100 feet of an Upland HCA in Section 16.114.090.B., an application for an Upland HCA review must be prepared and submitted on forms provided by the city. When a companion development plan review is required, the requirements of Section 16.114.150 shall be satisfied.

1. In addition to the form and information required in Section 16.44.030, an applicant shall submit the following:
 - a. Copies of the site plan or subdivision or partition plat, number to be determined by the city manager, and necessary data or narrative, which explains how the development conforms to the applicable criteria;
 - b. Site plans, preliminary plat, grading plan, and required drawings, prepared by a registered civil engineer;
 - c. Site plans shall identify the following:
 - i. Location and type of existing development, including but not limited to, building footprints, roads, driveways, parking areas, utilities, onsite sewage disposal systems, wells, landscaping, and filling or grading in an amount greater than 10 cubic yards;
 - ii. Location and width of existing adjacent roads and road rights-of-way;

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- iii. The location of the Upland HCA boundary, the area of the subject property within 100 feet of an Upland HCA boundary, and the location of any other protected natural or resource areas including, but not limited to, 100-year floodplain, riparian areas, wetlands, and slopes that are 25 percent or greater;
- iv. The location, species, height, and size of all trees that are 6 inches dbh or greater or tree groves on the property that are within an Upland HCA, Class I or II riparian area, or their respective 100-foot buffer areas;
- v. Density of grove of trees, as measured by overlapping canopy cover or canopy closure;
- vi. The location and description of all other vegetation that is either within the Upland HCA or within 100 feet of its boundary;
- vii. Location of agricultural areas (e.g., pastures, orchards);
- viii. Location of naturalized areas (e.g., meadows, woods);
- ix. Location of rivers, streams, wetlands, and flood areas;
- x. Distance between naturalized areas, water bodies, and trees;
- d. Landscape plan and mitigation plan for disturbance in the Class A or B Upland HCA as shown in Figure 16.114-9;
- e. The scale for the site plan or preliminary plat shall be an engineering scale of not less than 1-inch equals 50 feet;
- f. All drawings of structures elevations, prepared by a registered civil engineer or architect, shall be a standard architectural scale;
- g. In addition to the requirements of Article VI of this title, partitions and subdivisions shall identify proposed building envelopes, streets, and driveways necessary to serve the development that will follow the land division;
- h. Topographic map illustrating the existing and proposed topography of the subject property, drawn to scale. On properties that are 2 acres or larger, such a contour map is required only for the portion of the property to be developed. The topographic map shall be prepared using the following contour intervals:
 - i. For slopes of 5 percent or less, contour intervals not more than one foot,
 - ii. For slopes greater than 5 percent and up to and including 10 percent, contour intervals not more than two feet, and
 - iii. For slopes greater than 10 percent, contour intervals not more than 5 feet;
- i. Current photos of site conditions;
- j. Construction management plan per Section 16.090.H.; and
- k. Verification of any other permits required by other local, state, or federal agencies and the status of those permit applications.

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2. The information in Section 16.114.090.F.1 shall be submitted with or made part of a related development application, including but not limited to a building permit, development plan, or land division;
 3. Data and narrative for any related development applications as provided in this title;
 4. A list of names and addresses of all persons who are property owners of record within 250 feet of the subject property; and
 5. The required fee.
 6. The city manager may require information in addition to that required by this chapter when it is found that certain information is necessary to properly evaluate the application.
 7. The city manager may waive a specific requirement for information when it is found that such information is not necessary to properly evaluate the application.
- G. Construction management plans. A construction management plan shall be provided for non-exempt development within an Upland HCA or within 100 feet of an Upland HCA including the following information:
1. Demarcation of work areas to reduce potential damage to existing native vegetation within the Upland HCA;
 2. A tree protection plan prepared by a professional arborist shall demonstrate how existing trees 6 inch dbh or greater will be appropriately protected with fencing and other techniques when construction is proposed to be within 50 feet of the tree drip line;
 3. A plan for conserving native soils disturbed during development;
 4. Location of site access and egress that construction equipment will use;
 5. Equipment and material staging and stockpile areas;
 6. Erosion and sediment control measures;
 7. Measures to protect trees and other vegetation located within the Upland HCA and within 100 feet of an Upland HCA boundary, but outside of the disturbance area of a development approved under the provisions of this title; and
 8. Methods to ensure compliance with a development permit approved under this title.
- H. Approval standards.
1. As part of the development permit for any use or activity, which is located on a lot that includes an Upland HCA, or area within 100 feet of one, an application for an HCA review must be prepared and submitted in compliance with Section 16.114.090.F. The applicant shall demonstrate how the proposed development will satisfy the applicable criteria in Subsections 16.114.090.H.2. through 4.
 2. For development on a lot that is proposed to only occur within 100 feet of a Class A or B Upland HCA, the following requirements apply:

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- a. The proposed development shall avoid any intrusion into the Upland HCA where native trees, as identified in the Metro Native Plant List are present. For land divisions, this will include a building footprint area for each developable lot in addition to grading, streets, and utilities.
 - b. Appropriate protection for the Upland HCA shall be provided during construction to avoid any encroachment into the Upland HCA where native trees, as identified in the Metro Native Plant List are present, by providing protective fencing along the Upland HCA boundary and other methods approved by the city manager.
3. For development on a lot that is proposed to occur within a Class A or B Upland HCA, the following requirements apply:
 - a. Development shall avoid slopes of 25 percent or greater.
 - b. Unless precluded by physical constraints, including but not limited to, location of existing or planned vehicular access, existing improvements and intervening natural barriers, development shall first utilize any portions of the lot where native trees as identified in the Metro Native Plan List, are not present.
 - c. Native trees, which are 6 inches dbh or greater and have a drip line that is contiguous to the drip line of a tree canopy on the lot or an adjoining Upland HCA or Class I or II Riparian Corridor, shall be retained unless the applicant can provide evidence from a qualified arborist that the tree is diseased or poses a safety risk.
 - d. Singular, isolated native or non-native trees of any size and without contiguous drip lines may be removed subject to compliance with the mitigation requirements in Section 16.114.090.J.
 - e. All nuisance or prohibited plants identified in the Metro Native Plan List shall be removed in any areas being developed or disturbed.
 - f. To the extent practicable, when development within an Upland HCA is permitted, the proposed development shall be located, designed, and constructed to employ the techniques described in Part (c) of Table 16.114-8 to further minimize the impact of development in the Upland HCA.
 - g. Notwithstanding the requirements in Section 16.114.090.I.3.a. through f., a minimum development disturbance area shall be permitted within a Class A or B Upland Habitat Conservation Area on a lot according to Table 16.114-9.
4. For linear development where the project is within a public easement or right-of-way, the following requirements apply:
 - a. The linear improvements, including but not limited to, streets, sidewalks, pathways, and utilities, shall be designed to minimize grading, removal of native vegetation, removal of trees with a 6 -inch dbh or greater, and disturbance or removal of native soils by using the approaches described in Table 16.114-8;

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- b. All nuisance or prohibited vegetation identified in the Metro Native Plant List within the easement or right-of-way shall be removed;
 - c. Portions of the easement or right-of-way that is not permanently developed with impervious surfaces shall be restored using the approaches described in Table 16.114-8; and
 - d. Removed trees shall be mitigated with new plantings as provided in Table 16.114-10 except for the allowance of street trees approved by the city manager.
- 5. The following dimensional standards in Table 16.114-4 may be modified to reduce the land area converted to impervious surfaces:
 - a. Minimum lot size may be reduced up to 1,000 square feet.
 - b. Except for the garage, required yard building setbacks may be reduced by up to 50 percent.
 - i. Building height may be increased by 10 feet in exchange for reducing building footprints by at least 500 square feet.

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Table 16.114-8

Part (a): Design and Construction Practices to Minimize Hydrologic Impacts
<ol style="list-style-type: none"> 1. Amend disturbed soils to original or higher level of porosity to regain infiltration and stormwater storage capacity. 2. Use pervious paving materials for residential driveways, parking lots, walkways, and within centers of cul-de-sacs. 3. Incorporate stormwater management in road right-of-ways. 4. Landscape with rain gardens to provide on-lot detention, filtering of rainwater, and groundwater recharge. 5. Use green roofs for runoff reduction, energy savings, improved air quality, and enhanced aesthetics. 6. Disconnect downspouts from roofs and direct the flow to vegetated infiltration/filtration areas such as rain gardens. 7. Retain rooftop runoff in a rain barrel for later on-lot use in lawn and garden watering. 8. Use multi-functional open drainage systems in lieu of more conventional curb-and-gutter systems. 9. Use bioretention cells as rain gardens in landscaped parking lot islands to reduce runoff volume and filter pollutants. 10. Apply a treatment train approach to provide multiple opportunities for storm water treatment and reduce the possibility of system failure. 11. Reduce sidewalk width and grade them such that they drain to the front yard of a residential lot or retention area. 12. Reduce impervious impacts of residential driveways by narrowing widths and moving access to the rear of the site. 13. Use shared driveways. 14. Reduce width of residential streets, depending on traffic and parking needs. 15. Reduce street length, primarily in residential areas, by encouraging clustering and using curvilinear designs. 16. Reduce cul-de-sac radii and use pervious vegetated islands in center to minimize impervious effects, and allow them to be utilized for truck maneuvering/loading to reduce need for wide loading areas on site. 17. Eliminate redundant non-ADA sidewalks within a site (i.e., sidewalk to all entryways and/or to truck loading areas may be unnecessary for industrial developments). 18. Minimize car spaces and stall dimensions, reduce parking ratios, and use shared parking facilities and structured parking. 19. Minimize the number of stream crossings and place crossing perpendicular to stream channel if possible. 20. Allow narrow street right-of-ways through stream corridors whenever possible to reduce adverse impacts of transportation corridors.
Part (b): Design and Construction Practices to Minimize Impacts on Wildlife Corridors and Fish Passage
<ol style="list-style-type: none"> 1. Carefully integrate fencing into the landscape to guide animals toward animal crossings under, over, or around transportation corridors. 2. Use bridge crossings rather than culverts wherever possible. 3. If culverts are utilized, install slab, arch or box type culverts, preferably using bottomless designs that more closely mimic stream bottom habitat. 4. Design stream crossings for fish passage with shelves and other design features to facilitate terrestrial wildlife passage. 5. Extend vegetative cover through the wildlife crossing in the migratory route, along with sheltering areas.
Part (c): Miscellaneous Other Habitat-Friendly Design and Construction Practices
<ol style="list-style-type: none"> 1. Use native plants throughout the development (not just in HCA). 2. Locate landscaping (required by other sections of the code) adjacent to HCA. 3. Reduce light spill-off into HCAs from development. 4. Preserve and maintain existing trees and tree canopy coverage, and plant trees, where appropriate, to maximize future tree canopy coverage.

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Table 16.114-9 Minimum Development or Disturbance Area in Upland HCA

Minimum Development or Disturbance Area Permitted within the Upland HCA portion of a Lot ²⁶	HCA Class	
	A	B
Area developed with permanent improvements including, but not limited to, streets and driveways, parking, buildings, and other impervious areas that will not be revegetated.	20%	35%
Area that is temporarily disturbed for improvements such as grading and underground utilities and will be revegetated according to mitigation requirements Section 16.114.080.J.	30%	50%
Total combined area of permanent improvements and temporary disturbance.	50%	85%

6. A construction management plan as specified in Section 16.114.090.G.
 7. Development permits shall comply with the applicable requirements of this title in addition to Section 16.114.150.
 8. Partition and subdivision applications shall demonstrate how the land division improvements and the subsequent development on the proposed lots will comply with the provisions of this title. Provided that development following the recording of the final plat is consistent with what was approved as part of the land division, a subsequent Upland HCA review will not be required.
- I. Mitigation requirement for disturbance in Upland HCAs.
1. When intrusion into an Upland HCA satisfies the approval criteria in Section 16.114.090.H., mitigation shall be provided. Mitigation plans shall satisfy the following:
 - a. Mitigation shall occur on the site of the disturbance, to the extent practicable. Off-site mitigation shall be approved if the applicant has demonstrated that it is not practicable to complete the mitigation on-site and has provided documented the ability to ensure the success of off-site mitigation. Mitigation shall occur within the Kingston Terrace District. When an alternative location and/or watershed is proposed, the applicant shall demonstrate why mitigation in the same watershed is not practicable.
 - b. Nuisance or prohibited vegetation itemized in the Metro Native Plant List shall be removed within the mitigation area.
 - c. Selection of all revegetation plantings shall be from the Metro Native Plant List.

²⁶ For land divisions, the total development or disturbance area calculation shall include footprints for future building construction and related improvements such as driveways and patios. Minimums do not apply to linear development per Section 16.114.090.H.4.

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2. An applicant must meet Mitigation Option 1 or 2, whichever results in more tree plantings; except that where the disturbance area is one acre or more, the applicant shall comply with Mitigation Option 2:

- a. Mitigation Option 1. In this option, the mitigation requirement is calculated based on the number and size of trees that are removed from the site. Trees that are removed from the site must be replaced as shown in Table 16-114.10. Conifers must be replaced with conifers. Bare ground must be planted or seeded with native grasses or herbs. Non-native sterile wheat grass may also be planted or seeded, in equal or lesser proportion to the native grasses or herbs.

Table 16.114-10 Mitigation Option 1 – Tree Replacement

Size of tree to be removed (inches in diameter)	Number of trees and shrubs to be planted
6 to 12	2 trees and 3 shrubs
13 to 18	3 trees and 6 shrubs
19 to 24	5 trees and 12 shrubs
25 to 30	7 trees and 18 shrubs
Over 30	10 trees and 30 shrubs

- b. Mitigation Option 2. In this option, the mitigation requirement is based on the size of the disturbance area within a HCA. Native trees and shrubs are required to be planted at a rate of 5 trees and 25 shrubs for every 500 square feet of disturbance area (calculated by dividing the number of square feet of disturbance area by 500, then multiplying that result times 5 trees and 25 shrubs and rounding all fractions to the nearest whole number of trees and shrubs). Bare ground must be planted or seeded with native grasses or herbs. Non-native sterile wheat grass may also be planted or seeded, in equal or lesser proportion to the native grasses or herbs.
3. Plant size. The minimum size for replacement trees shall be 0.5-inch caliper measured 6 inches above ground level, and the minimum size for replacement shrubs shall be 1 gallon.
 4. Plant spacing. Accepted landscaping practices, such as plant spacing, mulching, watering, and weed control shall be employed for planting and maintenance.
 5. Plant diversity. When more than 10 trees or shrubs are planted, at least two different species shall be used.
 6. Maintenance. A mitigation maintenance plan shall be provided to demonstrate how a successful outcome will be achieved. A minimum of 80 percent of the plantings must survive, and removed nuisance or prohibited vegetation removed shall not reappear, for 5 years. The responsibility of monitoring, maintenance, and replacement shall rest with the property owner.
- J. Adjustments. The purpose of this section is to ensure that compliance with Section 16.114.090 does not cause unreasonable hardship. To avoid such instances, the requirements of Section

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16.114.090 may be adjusted. Adjustments shall be considered in conjunction with a development application within an Upland HCA, and they shall be reviewed as a Type II City Manager decision in accordance with this title.

1. To receive an adjustment to the Upland HCA requirements in this section, the applicant must demonstrate the following:
 - a. The proposed adjustment does not represent a deviation from the applicable standard by more than 20 percent.
 - b. The mitigation requirements in Section 16.114.090.I. will be satisfied. If the adjustment is related to these requirements, the applicant shall provide evidence from a qualified professional, including, but not limited to an arborist, landscape architect, or biologist to demonstrate that the proposed alternative mitigation techniques will provide environmental and ecological benefits, which are equally effective mitigation for intrusions into the Upland HCA.
2. Conditions may be imposed by the approval authority to limit and adverse impacts that may result from granting an adjustment.

16.114.100 Neighborhood Locations and Primary Land Uses

- A. The Regulating Plan locates each of the four neighborhoods within the Kingston Terrace Master Plan area. The neighborhood zones are generally located, and their boundaries shall be definitively established by the Backbone Streets, as follows:
 1. The Kingston Terrace Town Center is bounded by Beef Bend Road in the north, Roy Rogers Road on the west, and Elsner Road to the east and south.
 2. The Beef Bend Neighborhood is bounded by Beef Bend Road to the north, Elsner Road to the west, the new extension of Fischer Road on the south, and 137th Avenue on the east.
 3. The Central Neighborhood is bounded by the new extension of Fischer Road on the north (to 150th Avenue) and new east/west Neighborhood Route (identified in King City's Transportation System Plan Table 13 as Project ID 16), Elsner Road to the west, the Tualatin River on the south, and to the east, the extension of 147th Avenue, and the Natural Resource Area Overlay boundary.
 4. The Rural Character Neighborhood is bounded by a new east/west neighborhood route ((identified in King City's Transportation System Plan Table 13 as Project ID 16) on the north, the Natural Resource Area Overlay boundary to the west, 137th Avenue to the east, and the Tualatin River to the south.
 5. The Natural Resource Area Overlay boundary will generally define the extent of development, but the neighborhood zone boundaries shall generally coincide with street locations.
- B. Town Center Uses. The primary uses allowed outright within the Town Center neighborhood are listed in Table 16.114-2.

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1. Residential development in the Town Center shall comply with density requirements of Table 16.114-3, dimensional standards of Table 16.114-4, and design standards of Table 16.114-5.
 2. The Regulating Plan, Figure 16.114-9, identifies the location of a Municipal Zone at the intersection of River Terrace Boulevard and Fischer Road extension. In accordance with the Kingston Terrace Master Plan, future municipal buildings on this site may house a city hall, library, and other public facilities. The site of Clean Water Services' pump station, located south of the intersection of Roy Rogers Road and Fischer Road extension, is also identified as Municipal Zone.
 3. The Regulating Plan, Figure 16.114-9, identifies the location of the Mixed-Use Zone within the Town Center located along River Terrace Boulevard and north of the Fischer Road extension. Mixed-use buildings shall contain both residential and commercial uses, stacked vertically side-by-side or standalone. The commercial business may include retail, offices, and restaurants.
 4. The Regulating Plan, Figure 16.114-9, illustrates the location of public parks and open space within the Town Center neighborhood in relation to the Mixed-Use and Municipal Use Zones. Development and design of public parks and open space in the Town Center shall comply with the standards of Section 16.114.110.
- C. Residential Neighborhood Uses. The primary uses allowed outright within the Beef Bend, Central, and Rural Character residential neighborhoods are listed in Table 16.114-2.
1. Residential development in the Town Center shall comply with density requirements of Table 16.114-3, dimensional standards of Table 16.114-4, and design standards of Table 16.114-5.
 2. The Beef Bend Neighborhood may include neighborhood-scale commercial uses in conjunction with residential uses. Neighborhood-scale commercial may include multi-family dwelling units including live-work units with small-scale commercial development or residential over small-scale commercial.
 3. Development and design of public parks and open space in the Town Center shall comply with the standards of Section 16.114.110.

16.114.110 Parks, Open Space and Trails

- A. Developers shall pay Park System Development Charges (SDCs) in accordance with King City's Park SDC schedule or provide improvements per the Kingston Terrace Master Plan as agreed upon through the Annexation and Development Agreement process detailed in Section 16.114.140.C and D.
- B. Developments in the Kingston Terrace District shall provide parks, open space areas, and trails in substantial compliance with the overall development vision as described in the Kingston Terrace Master Plan.
 1. A development shall provide parks, trails, or open space:
 - a. As identified in the Kingston Terrace Master Plan Figure 3.4 Parks and Open Space System Diagram;

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- b. Conform to the Kingston Terrace Master Plan Table 3.1 Parks and Open Spaces: Types, Guideline, Location with respect to both size; and
 - c. Will be dedicated to the public if the proposal is for a public park or open space.
- 2. Parks and open spaces shall be designed to enhance the public pedestrian environment and be consistent to the applicable “General Characteristics” of the Land Use: Parks and Open Space section of the Master Plan.
- 3. Parks and open spaces shall be designed to include amenities and improvements as detailed in the “Key Features” in the Land Use: Parks and Open Space section of the Master Plan.
- 4. Improvements may include, but are not limited to the following:
 - a. Landscaped or hardscaped courtyards and plazas;
 - b. Play structures;
 - c. Weather canopies or sunshades;
 - d. Seating areas;
 - e. Free-standing planters and/ or raised planting beds;
 - f. Drinking fountains;
 - g. Public art or sculpture;
 - h. Water features;
 - i. Sports courts, fields, or tracts; or
 - j. Other pedestrian space or design feature as approved by the reviewing authority.
- 5. Passive recreation open spaces areas may be provided within identified natural resource or hazard areas including, but not limited to, 100-year floodplain, delineated wetlands and wetlands buffers, Class I and II Riparian Corridors, and Class A and B Upland Wildlife Habitat Conservation Areas if present on site. Improvements to such areas may include the following provided all necessary development approvals and permits are obtained:
 - a. Public accessways and trails;
 - b. Wildlife viewing areas; and
 - c. Improvements must comply with applicable requirements and approval criteria of Chapter 16.140 – Floodplain and Drainage Hazard Areas and Sections 16.114.080 - Kingston terrace District Goal 5 Safe Harbor Review and 16.114.090 – Upland Wildlife Habitat Conservation Areas.
- 6. Trails and paths shall be located and designed to:
 - a. Augment the public sidewalk system and facilitate access to parks, schools, trails, open spaces, commercial areas, and similar destinations.

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- b. Trails and paths must meet all applicable federal and state accessibility standards where feasible. Soft surface trails and paths in or adjacent to natural areas are allowable.
 - c. Be dedicated to the public or placed in a public access easement.
- C. The Town Center will include the following public parks and opens spaces:
 - 1. Park Blocks: An area of 4 to 7 acres located in the Town Center neighborhood shall provide both active and passive recreation and may include: sport fields, dog park, fitness stations, shelters, and open lawn seating.
 - 2. Urban Park: An area of 1 to 5 acres located to the south of the park blocks near the civic center. The urban park shall include space and be designed to accommodate community gatherings and events.
 - 3. Urban plazas: Areas of approximately 1,000 square feet to 5,000 square feet shall be located at the intersections of River Terrace Boulevard at the new east-west Neighborhood Route, and at River Terrace Boulevard at the Fischer Road extension. Urban plazas will be hardscaped with seating and ornamental landscaping.
 - 4. Neighborhood Park: An area of approximately $\frac{3}{4}$ -acres, shall be located in the southern portion of the Town Center neighborhood. The park will provide an open lawn area, shaded seating, and a play area.
 - 5. Linear Greens: Linear greens, located adjacent to the new east-west neighborhood route extending west from Elsner Road to Roy Rogers Road, shall provide a hard surface path and street furnishings such as benches, trash receptacles, and lighting.
 - 6. Natural Open Space: A natural open space area, spanning from Roy Rogers Road to Elsner Road, shall be located in the southern portion of the Town Center neighborhood. The 10-to-20-acre area shall provide connections to the natural resources with pedestrian trails, overlooks, nature play areas, and seating.
- D. The Beef Bend, Central, and Rural Character residential neighborhoods will include the following public parks and open spaces:
 - 1. Community Park: Two community parks about 15 to 30-acres in size shall be located within the residential neighborhoods. One community park shall be located in the Central Neighborhood and the second park is proposed to be located in the Rural Character Neighborhood. Community parks are proposed to be located near a collector or neighborhood route and adjacent to or near the Tualatin River. The exact location of the community parks may vary by up to a $\frac{1}{4}$ -mile radial distance as shown on in Figure 3.4 Parks and Open Space System Diagram of the Kingston Terrace Master Plan.
 - 2. Neighborhood Park: Three neighborhood parks, about 3 acres in size, are proposed within the Beef Bend, Central, and Rural Character residential neighborhoods. Each park shall serve a $\frac{1}{4}$ - to $\frac{1}{2}$ -mile radius of residential areas and be designed to include amenities such as lawn area, small playground, seating area, etc. The exact location of the neighborhood park may vary

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by up to a ¼-mile radial distance as shown in Figure 3.4 Parks and Open Space System Diagram of the Kingston Terrace Master Plan.

3. Linear Park: A multi-use path shall be integrated into the electric transmission tower corridor on the eastern edge of the residential neighborhoods as shown in Figure 3.4 Parks and Open Space System Diagram of the Kingston Terrace Master Plan.
 4. Open Space/ Natural Area: Open space and natural areas shall be provided generally along the north/south stream corridors, steep terrain, wetlands, and adjacent to the Tualatin River. The open space shall offer recreational amenities with minimal impact on the natural resources. The open space/natural areas shall be located as shown in Figure 3.4 Parks and Open Space System Diagram of the Kingston Terrace Master Plan; however, locations shall be field verified to determine the exact location of natural resources within the Beef Bend, Central, and Rural Character residential neighborhoods.
- E. Land use approvals for developments containing parks, open space, and trails shall assign maintenance responsibility if the area is not proposed and accepted as a public park.
- F. Development along Habitat Conservation Areas (HCA) and Class I and II Riparian Corridors.
1. Adjacent to HCA and Class I and II Riparian Corridors, fencing along a lot line perimeter cannot exceed 60 percent, shall not exceed 3 feet in height, and chain-link fences are prohibited. This standard may apply to the perimeter of lots measured collectively or measured individually, provided that it applies to 60 percent of the total lineal dimension.
 2. For lots adjacent to HCA and Class I and II Riparian Corridors, which have their front lot line facing the resource, the resource-facing façades of buildings must meet the design requirements in Section 16.114.060, human-scale design: articulation, eyes on the street/transparency, main entrance, and detailed design.

16.114.120 Neighborhood Circulation

- A. The neighborhood circulation requirements and approval standards of Chapter 16.212 apply to development in the Kingston Terrace District, except for the street, sidewalk, accessway, and trail circulation standards as modified in this Section.
- B. Backbone Street Network. The Regulating Plan, Figure 16.114-9, illustrates the location of existing and future Backbone Street Network consistent with King City's Transportation System Plan and the Kingston Terrace Master Plan. Following is a list of the existing and future streets, the functional classification, and corresponding Project Identification (ID) number identified in Table 13 in Chapter 5 of the Transportation System Plan (TSP):
1. North-south streets (listed west to the east):
 - a. Roy Rogers Road – Arterial - TSP Project ID 1
 - b. River Terrace Boulevard Extension – Collector - TSP Project ID 3

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- c. New Neighborhood Route west of Elsner Road between Beef Bend Road and Fischer Road - TSP Project ID 4
 - d. Elsner Road – Collector – TSP Project ID 5 and 6
 - e. New Neighborhood Route east of Elsner Road and west of 155th Avenue extension between Beef Bend Road and Fischer Road - TSP Project ID 10
 - f. 155th Avenue Extension – Collector - TSP Project ID 11
 - g. New Neighborhood Route east of 155th Avenue extension and west of 150th Avenue between Beef Bend Road and south of Fischer Road - TSP Project ID 12
 - h. 150th Avenue – Collector - TSP Project ID 13
 - i. 147th Avenue – Neighborhood Route - TSP Project ID 14
 - j. Myrtle Avenue – Neighborhood Route – TSP Project ID 15
 - k. 137th Avenue - Collector – TSP Project ID 18
2. East-west streets (north to south):
- a. Beef Bend Road – Arterial - TSP Project ID 8
 - b. New Neighborhood Route south of Beef Bend Road between 137th Avenue and new neighborhood route – TSP Project ID 9
 - c. New Neighborhood Route north of Fischer Road extension between 137th Avenue and 150th Avenue – TSP Project ID 16
 - d. Fischer Road Extension – Collector – TSP Project ID 7
3. Local Streets. Within the areas bounded by Backbone Streets a finer-grained network of local streets will be built.
4. Location of connecting street segment. To minimize impact to natural resources and accommodate topography, alignment of segments of Collector and Neighborhood Routes may vary up to 100 feet from the locations identified on the Regulating Plan, Figure 16.114-9, provided they fully connect/ intersect with each of the streets and intersections as shown on the Regulating Plan.
- C. Backbone Street intersections. The Regulating Plan, Figure 16.114-9, identifies the types of intersections of Backbone Streets and classifies them as follows:
- 1. Type A Intersections. The following intersections already exist and/or will be extended into the Kingston Terrace District Plan. The location of these intersections may be adjusted by 100 feet in any direction to accommodate topography, desired connection points, and construction feasibility. Type A intersections include:
 - a. Beef Bend Road at Roy Rogers Road;
 - b. Fischer Road Extension at Roy Rogers Road;

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- c. Elsner Road at Roy Rogers Road;
 - d. River Terrace Boulevard Extension at Beef Bend Road;
 - e. Elsner Road at Beef Bend Road;
 - f. 150th Avenue at Beef Bend Road,
 - g. 137th Avenue at Beef Bend Road;
 - h. Fischer Road at 137th Avenue; and
 - i. Fischer Road at 150th Avenue.
- 2. Type B Intersections. The remaining intersections identified on the Regulating Plan, Figure 16.114-9, are Type B. The location of these intersections may be adjusted by 200 feet in any direction to accommodate topography, desired connection points, and construction feasibility.
- 3. The Regulating Plan, Figure 16.114-9, includes unidentified intersections of Backbone Streets with Beef Bend Road. Location of the unidentified intersections is dependent upon Washington County's intersection spacing standards, the timing of development, property ownership, topography, and minimization of impact to natural resources.
- D. Street circulation standards. The following criteria apply to the street network within the Kingston Terrace District:
 - 1. Block length of collectors, neighborhood routes, and local streets shall not exceed 530 feet measured between intersections with public streets.
 - 2. Exceptions to the block size may be approved by the City Engineer where a street location is precluded by natural topography, wetlands, significant habitat areas, bodies of water, pre-existing development, or intersection spacing requirements for arterial or collector streets. An exception to the block length may also be approved to support the urban design goals of the neighborhood including, but not limited to, development of an urban neighborhood that includes plazas and active frontages, and creation of public parks and open spaces such as park blocks or linear greens that support multi-modal transportation.
 - 3. Mid-block pedestrian and bicycle accessways on public easements or rights-of-way must be provided at spacing of no more than 330 feet if full-street connections cannot be provided, unless the connection is impracticable due to topography, natural areas, inadequate sight distance, lack of supporting land use or other factors that may prevent safe connection, as determined by the City Engineer.
 - 4. The Regulating Plan, Figure 16.114-9, does not limit the ability of a developer to add additional streets or intersections.
- E. Design Standards: Table 16.114-11 details the street dimension and design characteristics for streets in the Kingston Terrace District.

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Table 16.114-11 Street Dimensional and Design Standards

Street Type	Right of way or easement width ²⁷	Pedestrian Walkway: Sidewalk, and Furnishings/ Landscape Zone		Parking Lane width, max.	Bike Facility	Vehicular travel lanes		Applicability
		Pedestrian Throughway, min. ²⁸	Pedestrian Walkway, min.			Number	Width, max.	
Median Street A [²⁹] <i>Planted Median</i> Figure 16.114-12	102 feet, typical	6 feet 5 feet (Local)	12 feet	8 feet 7 feet (Local)	Shared	2	11 feet	Collector, Neighborhood Route, or Local
Median Street B [²⁹] <i>Center Plaza</i> [³⁰] Figure 16.114-13	100 feet, typical	6 feet 5 feet (Local)	12 feet	8 feet 7 feet (Local)	Shared	2	11 feet	Collector, Neighborhood Route, or Local
Main Street A <i>Parallel Parking</i> [³⁰] Figure 16.114-14	60 feet, max.	6 feet 5 feet (Local)	12 feet	8 feet 7 feet (Local)	Shared	2	11 feet	Collector, Neighborhood Route, or Local
Main Street B <i>Diagonal Parking</i> [³⁰] Figure 16.114-15	90 feet, max.	6 feet 5 feet (Local)	12 feet	8 feet 7 feet (Local)	Shared	2	12 feet	Collector, Neighborhood Route, or Local
Neighborhood Street Figure 16.114-16	60 feet, max.	6 feet 5 feet (Local)	12 feet	8 feet 7 feet (Local)	Shared	2	10 feet	Collector, Neighborhood Route, or Local

²⁷ The combined required dimensions of each component (i.e., Plant Strip, Sidewalk) may be accommodated within the right-of-way, an easement or a combination of the two.

²⁸Per the City of King City Transportation System Plan, Figure 29: Sidewalk Zones, the Pedestrian Walkway Zone includes both the Pedestrian Throughway and Furnishing/ Landscape Zone. The Pedestrian Throughway Zone is the accessible zone in which pedestrians travel. The Furnishings/ Landscape Zone is located between the pedestrian throughway and the curb and includes street furnishings and/ or landscaping (e.g., benches, lighting, bicycle parking, tree wells, and/or other plantings).

²⁹ Left turn lane is optional in median streets; median may be a combination of planted, paved, and/or parked; median may be 20 to 40 feet wide.

³⁰ Parallel or diagonal parking area may be partially planted, and/or used for permanent or temporary outdoor seating or other public uses instead of parking.

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Street Type	Right of way or easement width ²⁷	Pedestrian Walkway: Sidewalk, and Furnishings/ Landscape Zone		Parking Lane width, max.	Bike Facility	Vehicular travel lanes		Applicability
		Pedestrian Throughway, min. ²⁸	Pedestrian Walkway, min.			Number	Width, max.	
Biking Street A <i>Parking-Buffered Bike Lane</i> Figure 16.114-17	78 feet, max.	6 feet 5 feet (Local)	12 feet	8 feet 7 feet (Local)	Protected	2	10 feet	Collector, Neighborhood Route, or Local
Biking Street B <i>Buffered Bike Lane</i> Figure 16.114-18	62 feet	6 feet 5 feet (Local)	12 feet	8 feet	Protected	2	10 feet	Local
Biking Street C <i>Separated Bike Lane</i> Figure 16.114-19	66 feet	6 feet 5 feet (Local)	12 feet	8 feet 7 feet (Local)	Separated	2	10 feet	Collector, Neighborhood Route, or Local
Rural Character Neighborhood Street Figure 16.114-20	50-60 feet	5 feet	15-20 feet	[³¹]	[³²]	2	10 feet	Collector, Neighborhood Route, or Local [³²]
Narrow Street A[³³][³⁴] <i>Parking One-Side</i> Figure 16.114-21	46 feet	5 feet	10.5 feet	1 lane at 7 feet ³⁵	Shared	1+	14 feet	Local

³¹ Parking is accommodated within the Pedestrian Walkway zone.

³² On a collector street the bicycle facility may be accommodated on a multi-use path.

³³ Lots with front lot lines adjacent to or within ¼-mile distance from a Habitat Conservation Area (HCA) may be served by a narrow street or alley to minimize impact to the resource.

³⁴ Narrow Street design alternatives A, B, and C must meet the applicable criteria of Section 16.114.120.F.1.

³⁵ The parking zone may shift from side to side of the vehicular travel lane as long as the minimum width of the vehicular is maintained. The curbside parking area may be partially planted, and/or used for permanent or temporary outdoor seating or other public uses instead of parking.

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Street Type	Right of way or easement width ²⁷	Pedestrian Walkway: Sidewalk, and Furnishings/ Landscape Zone		Parking Lane width, max.	Bike Facility	Vehicular travel lanes		Applicability
		Pedestrian Throughway, min. ²⁸	Pedestrian Walkway, min.			Number	Width, max.	
Narrow Street B ^[33] ^[34] <i>Parking Both Sides</i> Figure 16.114-22	50 feet	5 feet	10.5 feet	2 lanes at 7 feet each	Shared	1+	14 feet	Local
Narrow Street C ^[33] ^[34] <i>No Parking</i> Figure 16.114-23	42 feet	10.5 feet	5 feet	None	Shared	1+	20 feet	Local
Alley ^[36] Figure 16.114-24	20.0 feet - 34.5 feet	NA	NA	NA	NA	1+	14 feet - 20 feet	May be used along natural resource edge

³⁶ Development sites that have public street frontage on an arterial street, collector, neighborhood route or local street, upon which they cannot take direct vehicle access may choose to provide vehicle access through an alley.

F. Typical street sections:

Figure 16.114.12 – Median Street A (Planted Median)

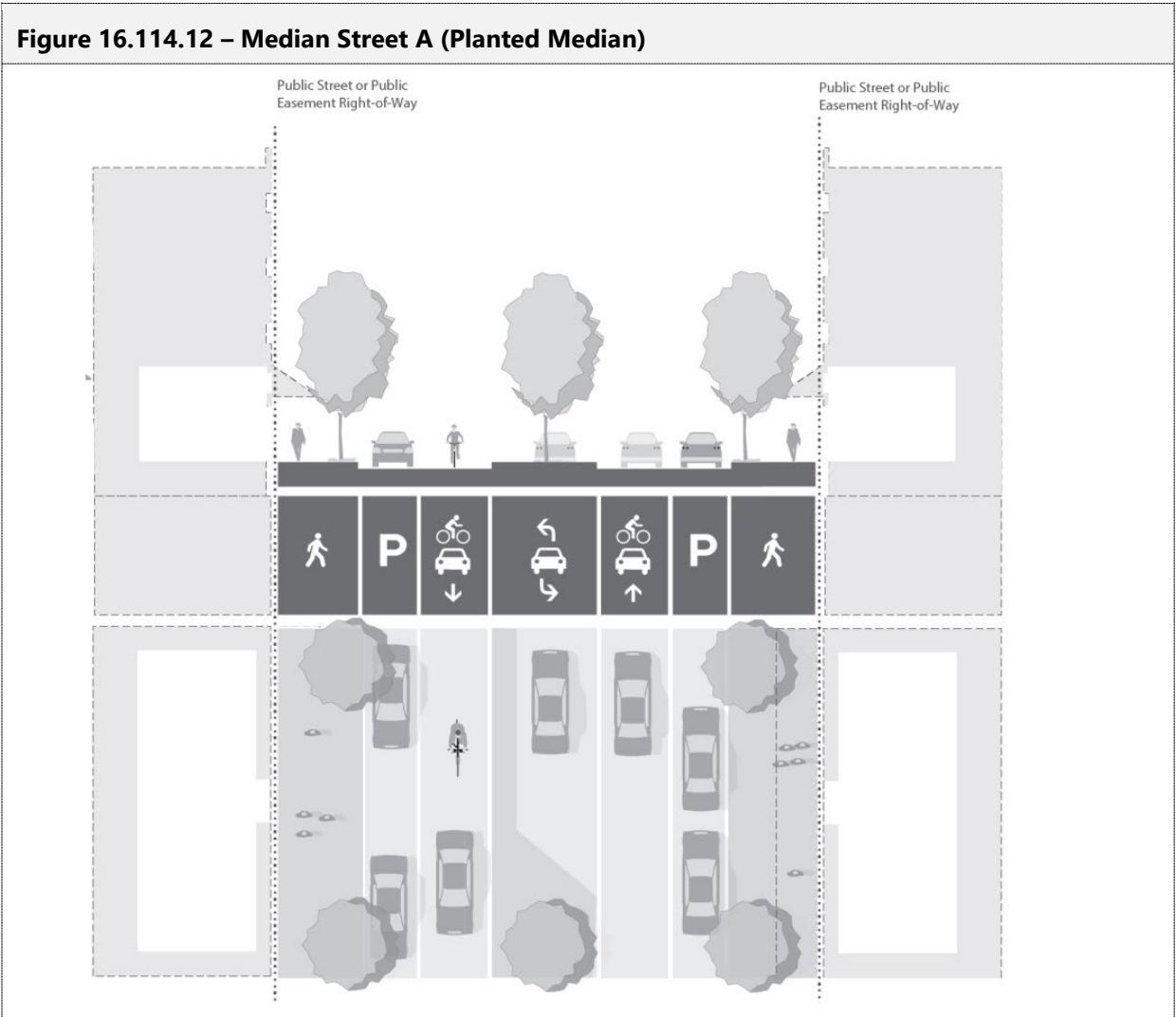


Figure 16.114.13 – Median Street B (Center Plaza)

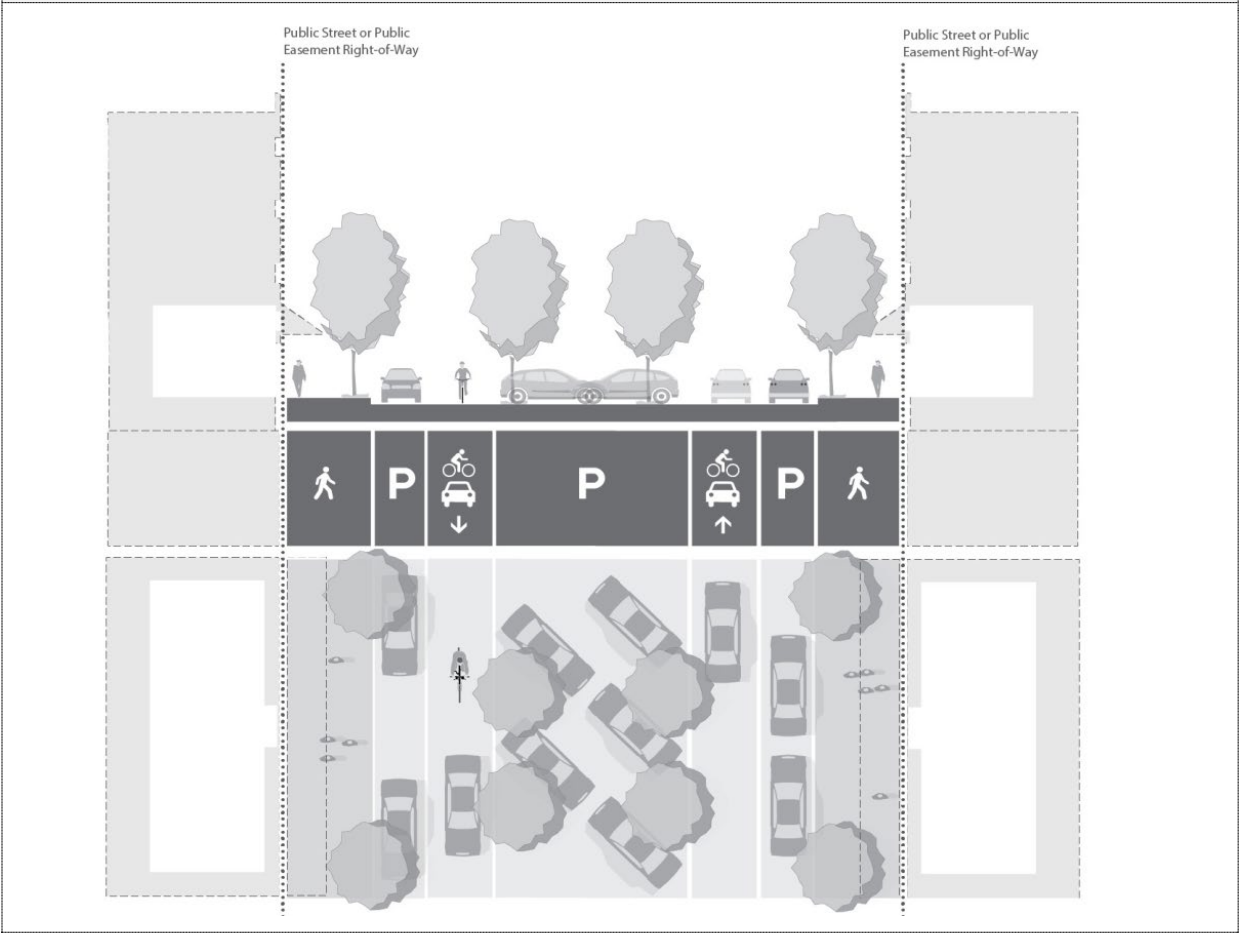


Figure 16.114.14 – Main Street A (Parallel Parking)

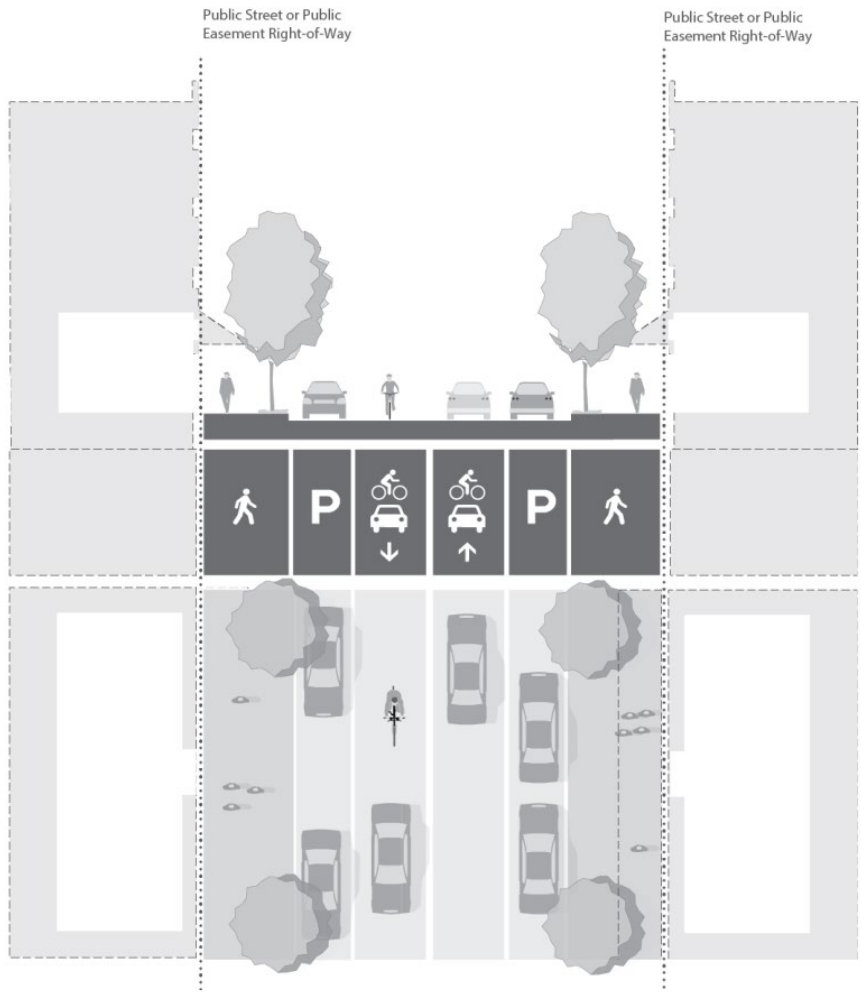


Figure 16.114.15 – Main Street B (Diagonal Parking)

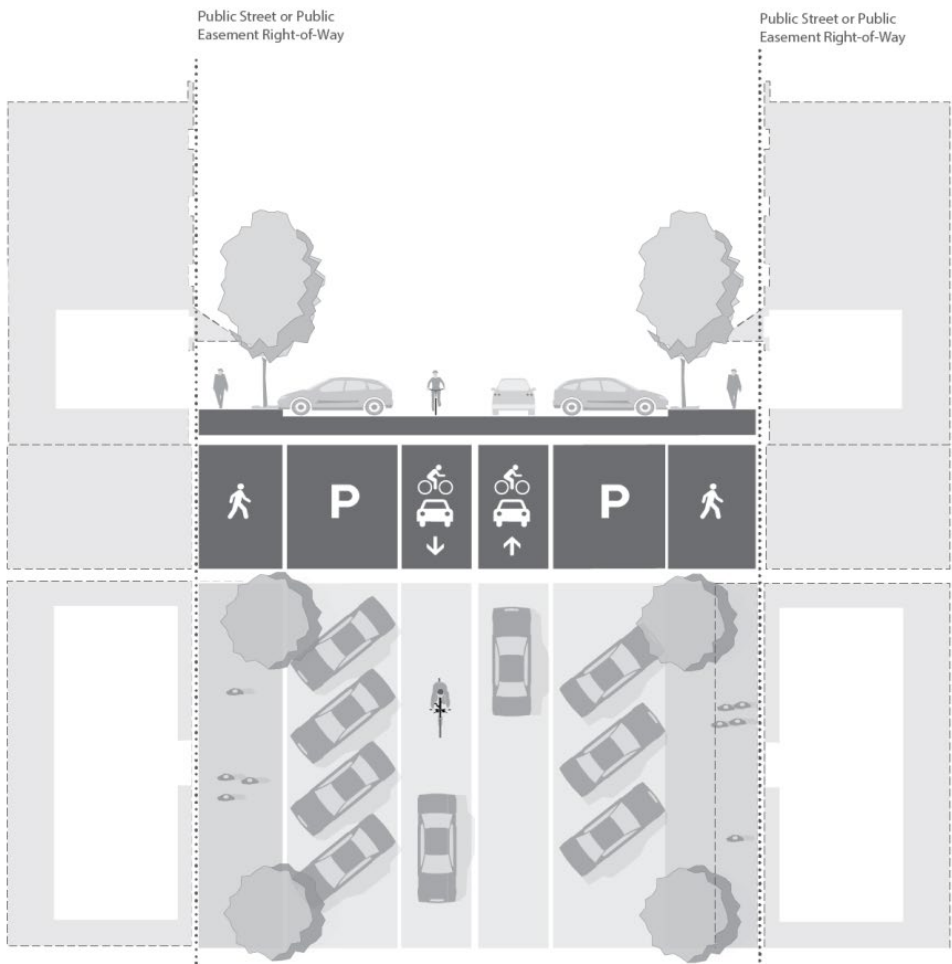


Figure 16.114.16 – Neighborhood Street

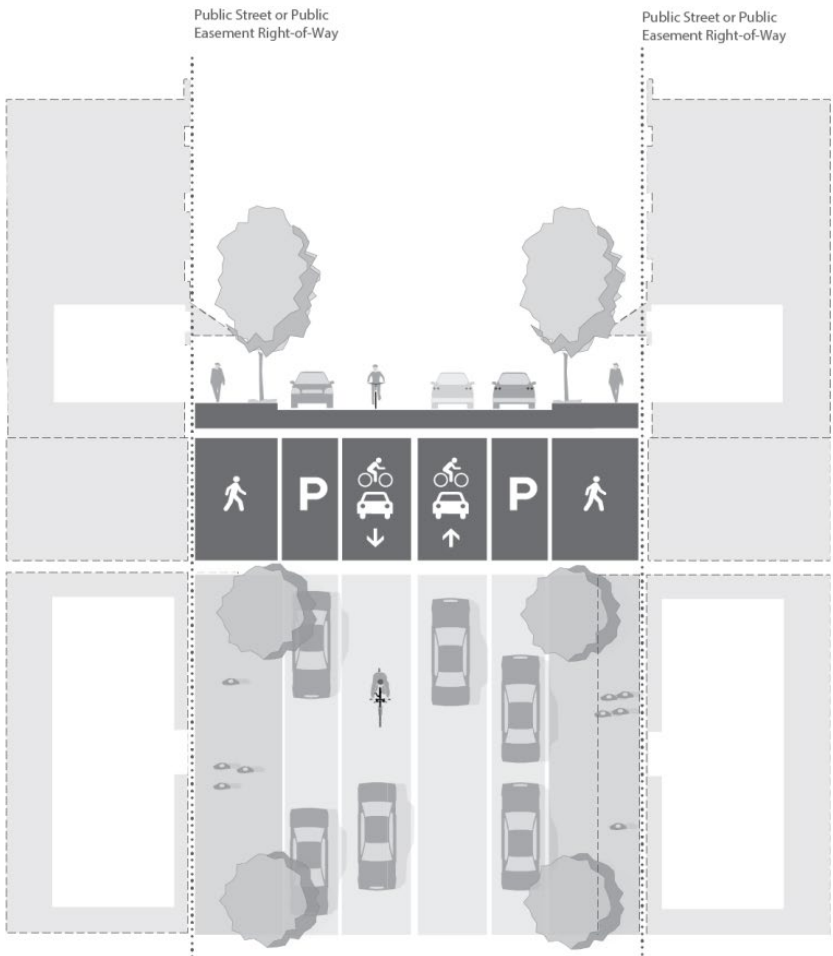


Figure 16.114.17 – Biking Street A (Parking-Buffered Bike Lane)

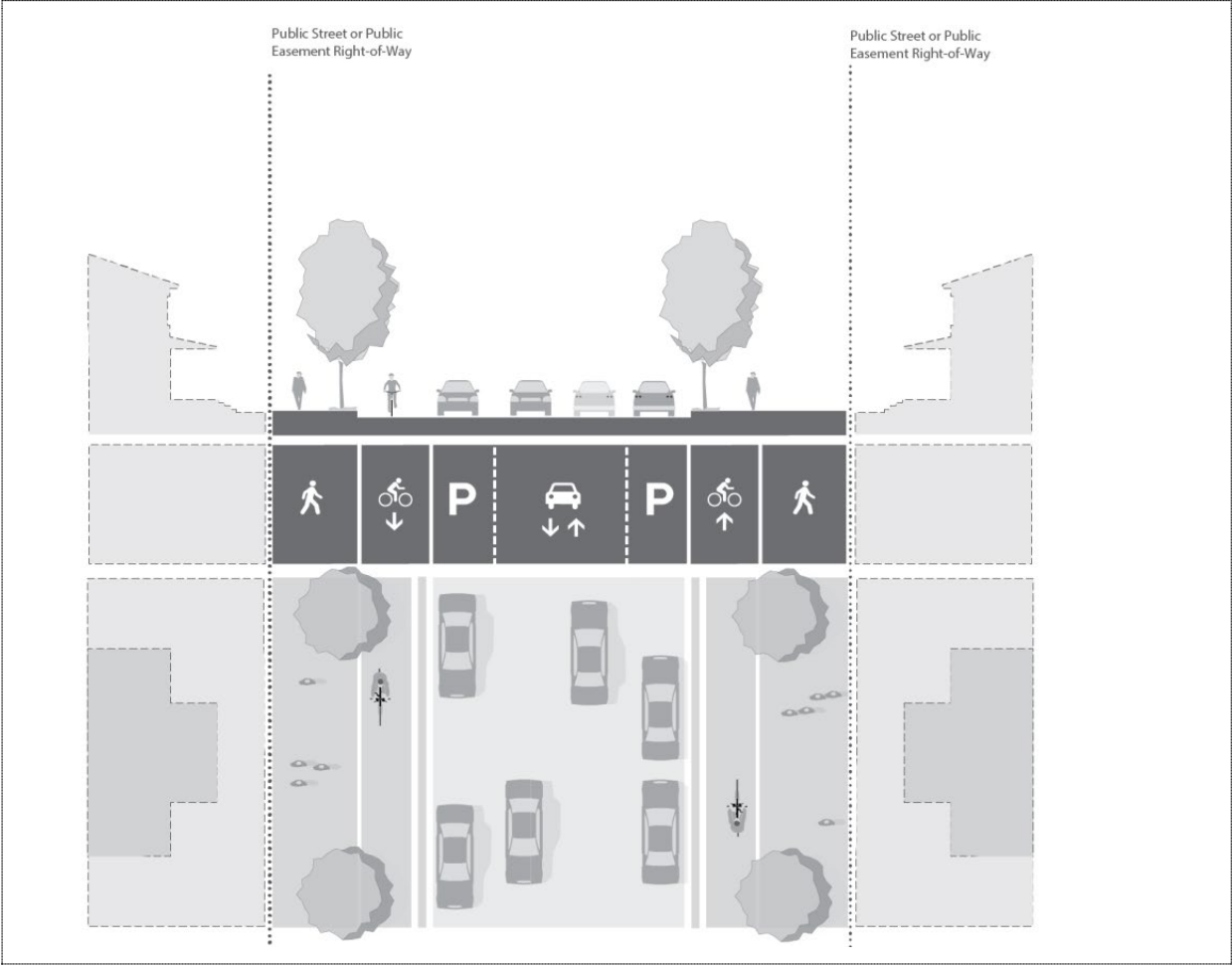
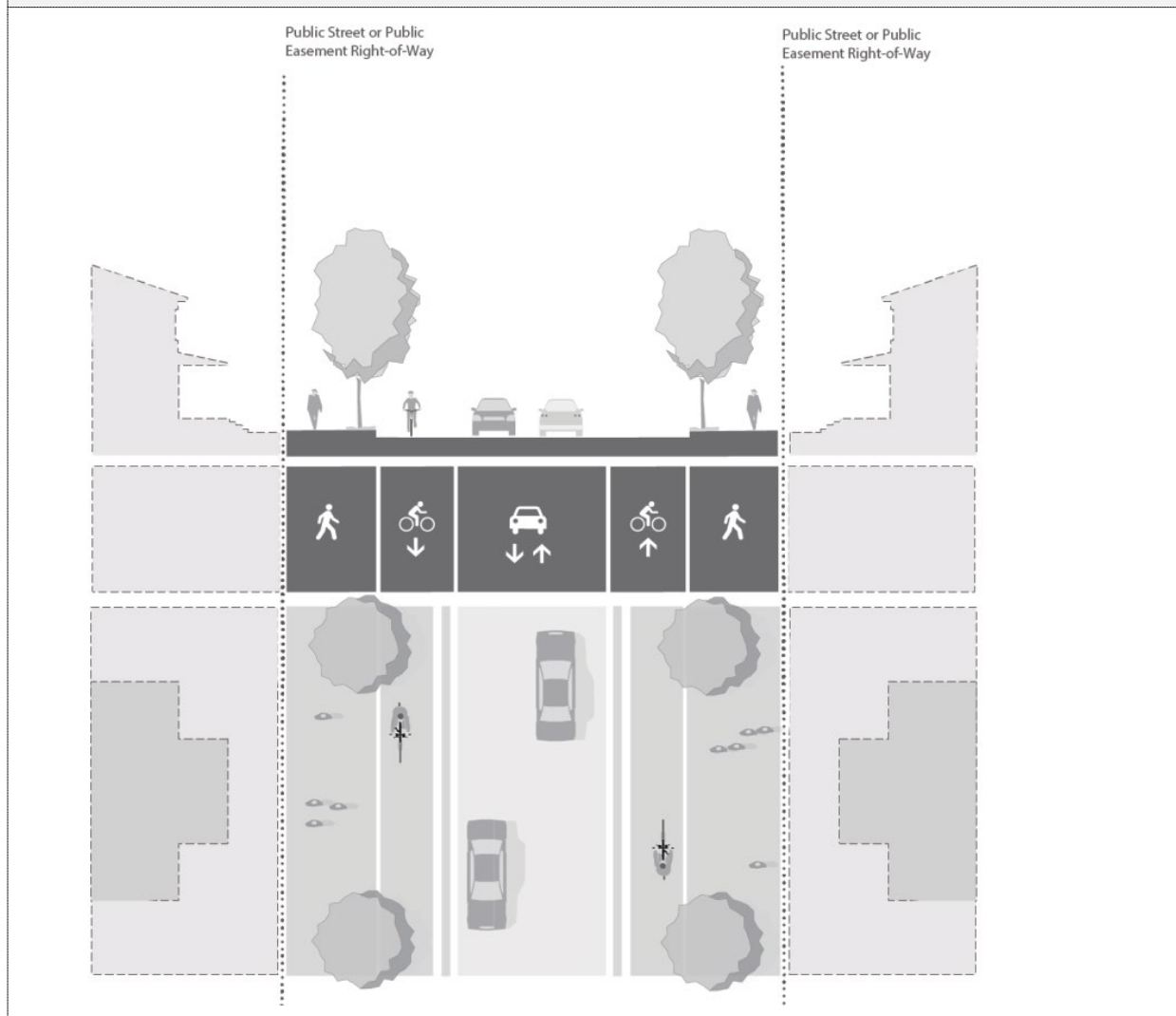
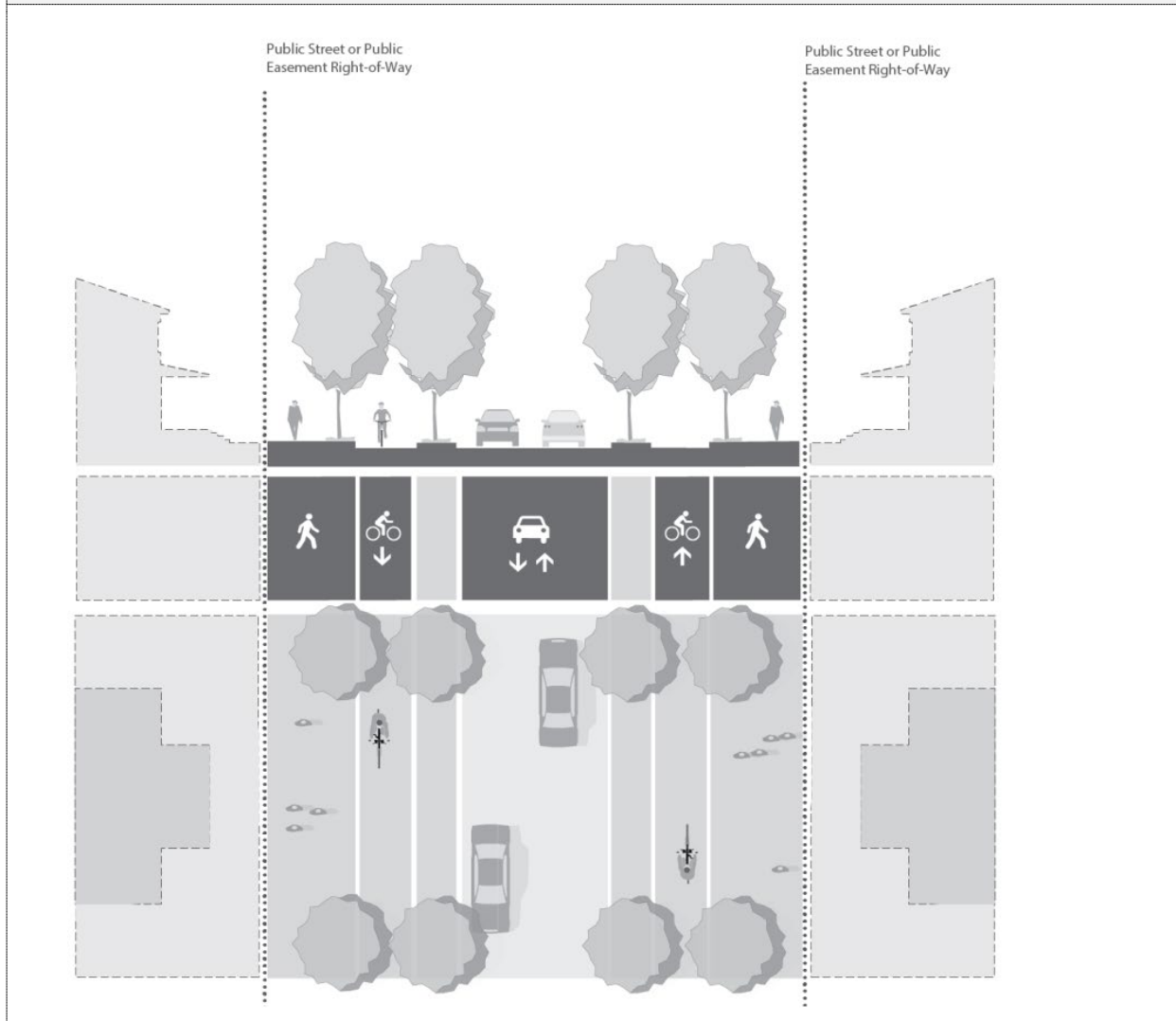


Figure 16.114.18 – Biking Street B (Buffered Bike Lane)³⁷



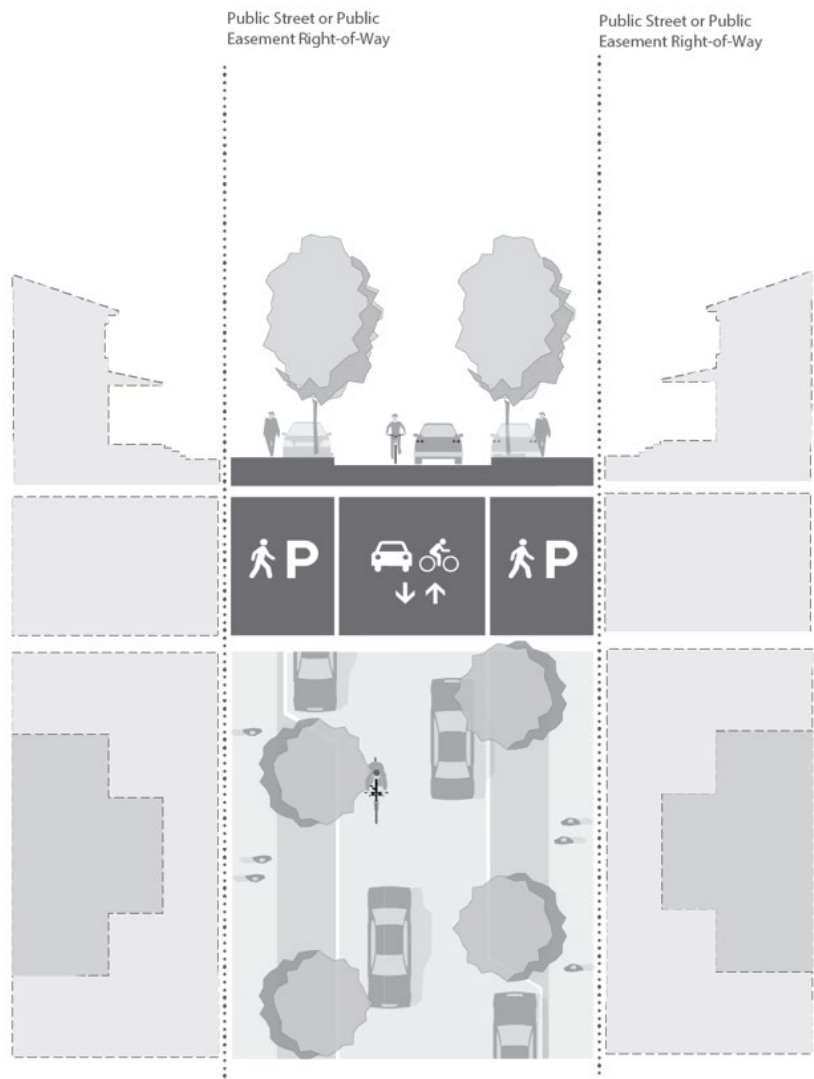
³⁷ Optional Biking Street B (Buffered Bike Lane) design may include parking lane as noted in Table 16.114-11 - Street Dimensional and Design Standards.

Figure 16.114.19 – Biking Street C (Separated Bike Lane)³⁸



38 Optional Biking Street C (Separated Bike Lane) design may include parking lane as noted in Table 16.114-11 - Street Dimensional and Design Standards.

Figure 16.114.20 – Rural Character Neighborhood Street



1. Narrow Streets. Three alternative cross-sections for local residential narrow streets are illustrated in the following Figures 16.114-21, 16.114-22, and 16.114-23. Each Narrow Street alternative is tied to a specific set of criteria that must be met when adopting the alternative.
 - a. Criteria for Narrow Street A:
 - i. Traffic Flow Plan must be submitted and approved before adopting the alternative.
 - ii. Not appropriate for streets serving more than 500 vehicle trips per day.
 - iii. On-street parking is permitted on one side only.
 - iv. No on-street parking is permitted within 30 feet of an intersection.
 - b. Criteria for Narrow Street B:
 - i. Traffic Flow Plan must be submitted and approved before adopting the alternative.
 - ii. Not appropriate for streets serving more than 1,000 vehicle trips per day.
 - iii. On-street parking is permitted on both sides.
 - iv. No on-street parking is permitted within 30 feet of an intersection.
 - c. Criteria for Narrow Street C:
 - i. Traffic Flow Plan must be submitted and approved before adopting the alternative.
 - ii. Not appropriate for streets serving more than 200 vehicle trips per day.
 - iii. No on-street parking is permitted on either side.

Figure 16.114.21 – Narrow Street A (Parking One-Side)

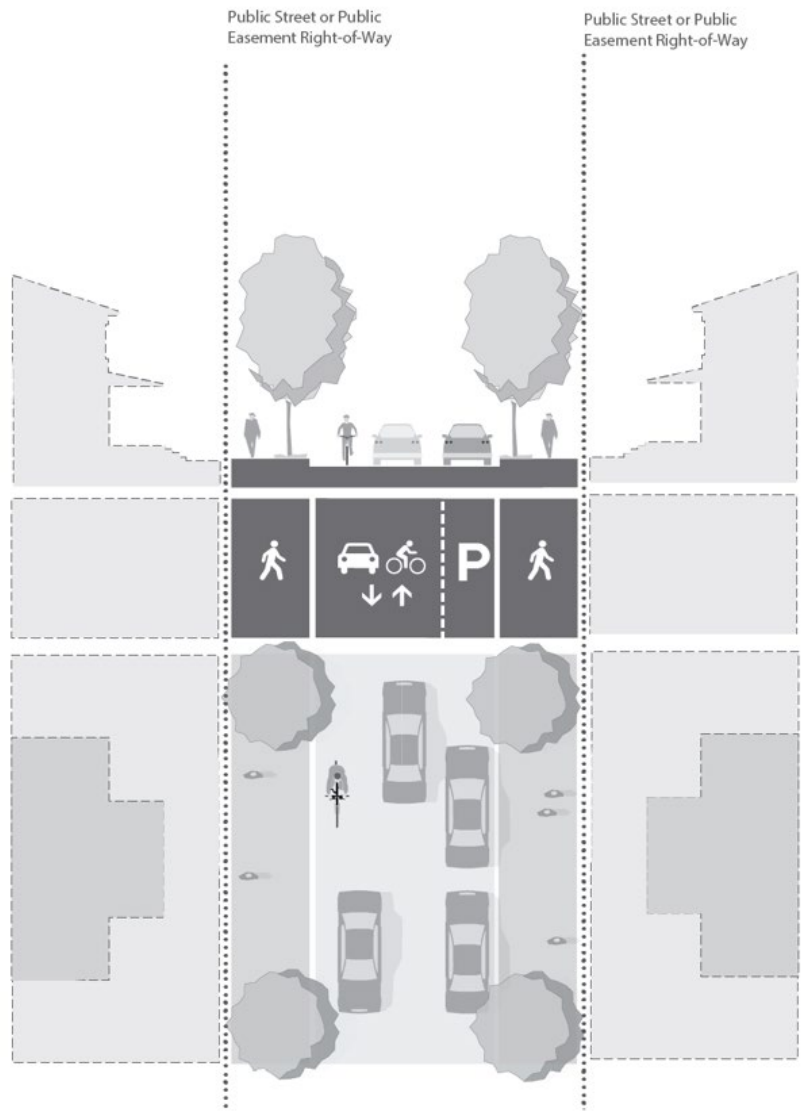


Figure 16.114.22 – Narrow Street B (Parking Both Sides)

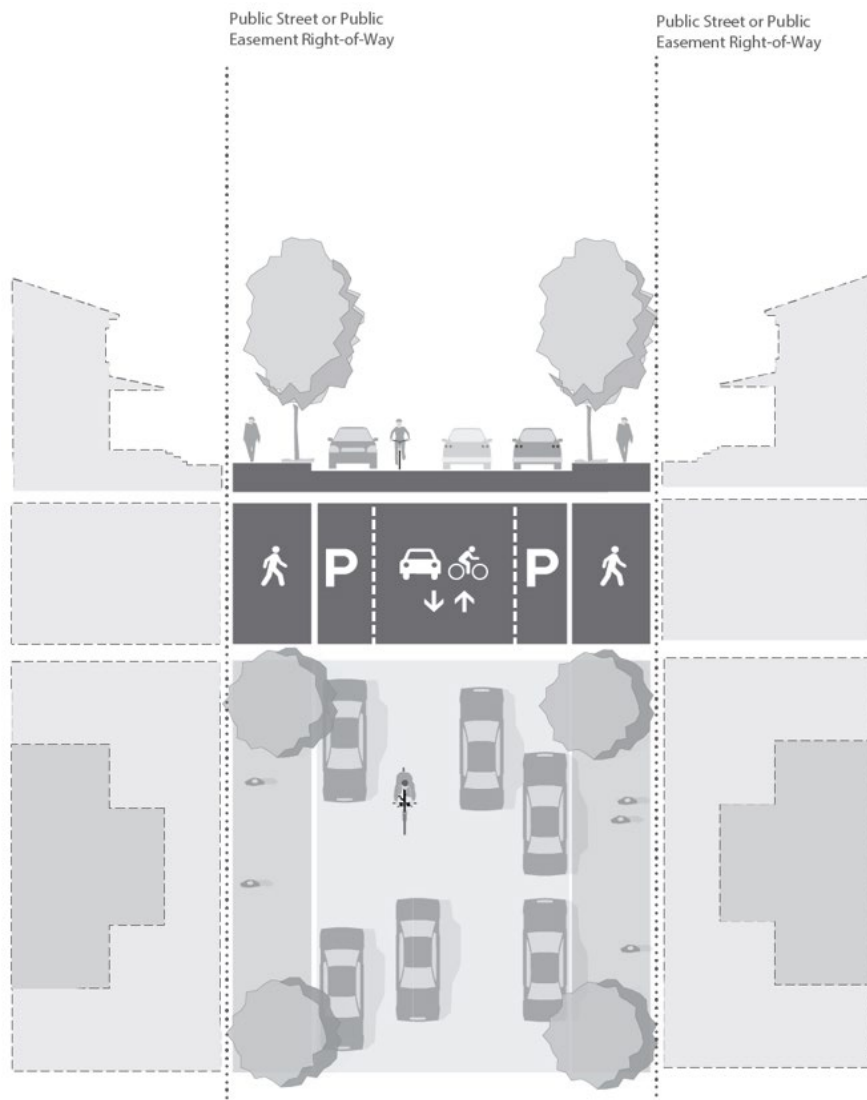


Figure 16.114.23 – Narrow Street C (No Parking)

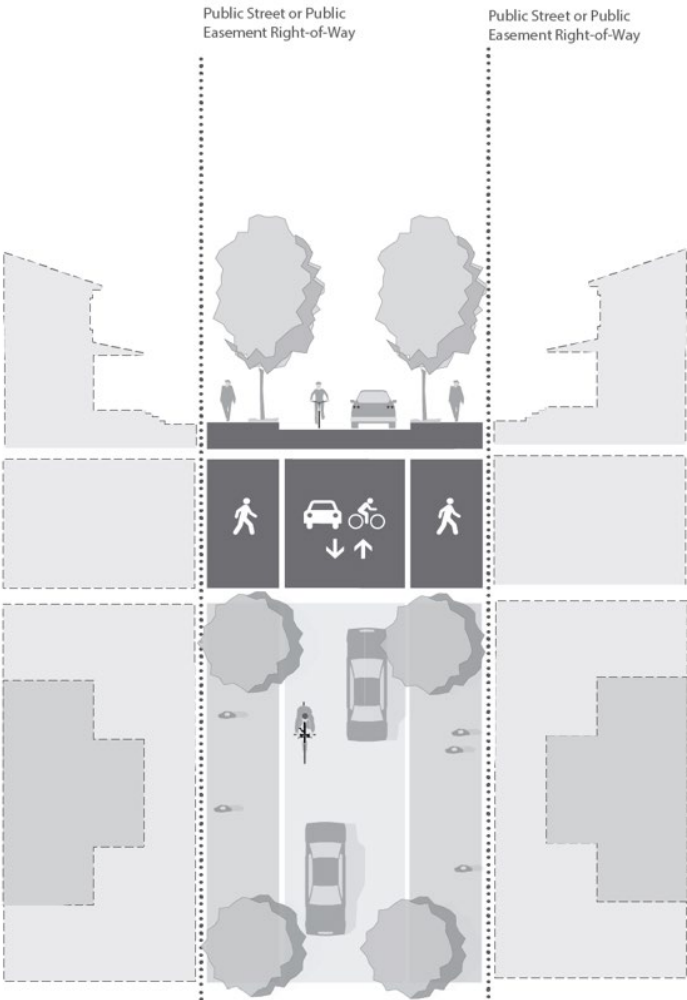
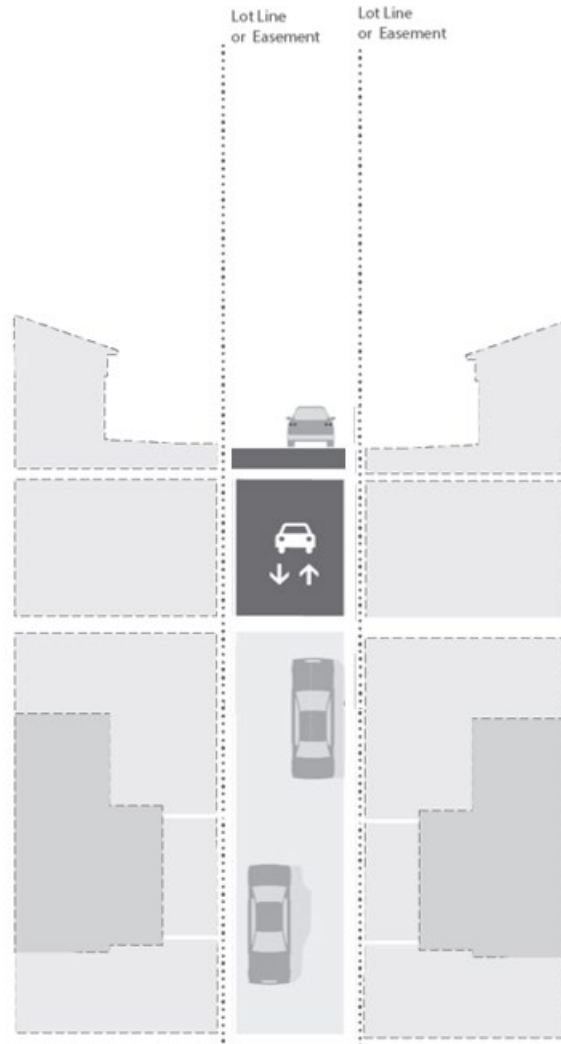


Figure 16.114.24 – Alley



G. Adjustments to the street dimension and design characteristics. Adjustments to the street dimension and design characteristics of Section 16.114.120.E may be approved by the City Engineer through a Development Plan Review with consideration made to the following:

1. The functional street classification.
2. Anticipated traffic volume.
3. Sidewalk and bikeway requirements.
4. On-street parking needs.

5. Requirements for placement of utilities.
 6. Street lighting.
 7. Drainage and slope impacts.
 8. Protection of inventoried Goal 5 natural resources including Class A and B Upland Wildlife Habitat Conservations Areas and Class I and II Riparian Habitat Conservation Areas.
 9. Street location.
 10. Planting and landscape areas.
 11. Safety and comfort for motorists, bicyclists, and pedestrians.
 12. Access needs for emergency and service vehicles and transit.
 13. Guidance provided in Table 5: Minimum Bicycle Facilities, Table 7: Process for Determining Street Cross-Sections in Constrained Conditions, and Table 8: Constrained Acceptable Sidewalk Configuration of the City's Transportation System Plan.
- H. On-Site bicycle and pedestrian circulation. Development within Kingston Terrace shall provide an on-site bicycle and pedestrian circulation system which includes the following:
1. Private development shall provide continuous connections between the primary buildings, ground level entrances, common buildings, common open space, and vehicle and bicycle parking areas.
 2. Pedestrian walkways shall be separated from vehicle parking and maneuvering areas by physical barriers such as planter strips, raised curbs, or bollards.
 3. Walkways shall be constructed with a hard surface material and shall be no less than 5 feet wide. If adjacent to a parking area where vehicles will overhang the walkway, it shall have a minimum width of 7 feet. The walkways shall be separated from parking areas and internal driveways using curbing, bollards, landscaping, or distinctive paving materials.
 4. Dwelling, multi, mixed-use, and commercial developments shall provide on-site bicycle and pedestrian connections every 330 feet of block length where block lengths exceed 530 feet, except where precluded by natural topography, wetlands, significant habitat areas, bodies of water, or pre-existing development.
- I. Public bicycle and pedestrian circulation and facilities. The bicycle and pedestrian circulation system in the Kingston Terrace District shall include the following:
1. Location of pedestrian and bicycle routes shall substantially conform to Figure 26: Pedestrian Route Designations and Figure 27: Bicycle Route Designations of the King City Transportation System Plan, except as altered by traffic or engineer analysis.
 2. Size and location of pedestrian and bicycle facilities along public streets shall conform to the Street Dimensional and Design Standards of Table 16.114-11.

3. Where bicycle routes are parallel and adjacent to an auto travel lane, the connection must be clearly marked and safely separated from the auto travel lane.
- J. Future transit. Developers shall coordinate with transit providers on design and location of transit infrastructure for development along transit routes identified in King City's Transportation System Plan Figure 28: Transit Route Designations.
- K. Circulation and Access. Development in the Kingston Terrace District shall comply with the minimum driveway, access width, and pavement width standards of Table 16.114-12.

Table 16.114-12 Minimum Vehicle Access Standards

Uses	Number of Driveways	Access Width	Pavement Width
Dwelling, single detached or attached	1	10 ft.	10 ft.
Dwellings, multi	1	30 ft.	15 ft. for 1-way 20 ft. for 2-way Curbs and 5 ft. Walkway Required
Mixed-Use and Non-Residential Uses (0-99 Parking Spaces)	1	30 ft.	24 ft. Curbs Required
Mixed-Use and Non-Residential Uses (100+ Parking Spaces)	1	30 ft. Without Parking	24 ft. Curbs Required
		50 ft. With Parking	40 ft. Curbs Required

1. Private residential access drives shall be provided and maintained in accordance with the applicable provisions of the uniform fire code.
2. Access drives from the street to off-street parking or loading areas shall be designed and constructed to facilitate the flow of traffic and provide maximum safety for pedestrian and vehicular traffic on the site.
3. Parking spaces on access driveways shall be designed to reduce or eliminate backing movements and other conflicts with the driveway traffic and pedestrian routes and crosswalks.
4. To slow traffic speeds on access drives, speed bumps, speed limit signs, and similar techniques may be required by the approval authority to enhance safety for pedestrians, bicyclists, and motorists on the site.
5. To improve traffic flow, the city engineer may require directional signs on the site to guide pedestrians, bicyclists, or motorists.
6. Where a proposed parking facility is served by one-way traffic flow on the site, it shall be accommodated by a driveway system approved by the city, and the entrance drive shall be situated closest to oncoming traffic and the exit drive shall be situated farthest from oncoming traffic.

7. The direction of traffic flow shall be clearly marked for motorists on the property and the adjoining public street.
8. Excluding dwelling, single-family attached or detached, groups of more than two parking spaces and all loading areas shall be served by a service drive so that no backing movements or other maneuvering within a street or other public right-of-way is required.
9. All driveways shall be paved and designed in a manner approved by the City Engineer.
10. Where pedestrian or bicycle routes cross driveways, parking area or loading areas, the connection must be clearly identifiable through the use of striping, elevation changes, speed bumps, a different paving material, or other similar method.

16.114.130 Parking and Loading

- A. Purpose. The purpose of this chapter is to provide basic and flexible standards for the development of vehicle parking, loading and bicycle parking. The design of parking and loading areas is critically important to the viability of commercial areas, pedestrian and driver safety, the efficient and safe operation of adjoining streets, and community image and livability. Because vehicle-parking facilities can occupy large amounts of land, they must be planned and designed carefully to use the land efficiently while maintaining the visual character of the community.
- B. Applicability. The Parking and Loading standards of Chapter 16.132 do not apply to new development in the Kingston Terrace District. They are superseded by the standards of Section 16.114.130.
- C. Vehicle parking standards.
 1. Minimum number of vehicle parking spaces. There are no minimum vehicle parking requirements in the Kingston Terrace District.
 2. Maximum number of vehicle parking spaces.
 - a. The number of parking spaces provided by any particular use in ground surface parking lots must not exceed the number of parking spaces provided in Table 16.114-13, Maximum Off-Street Vehicle Parking Spaces. Spaces provided on-street, or within the building footprint of structures, such as in rooftop parking, tuck-under parking or under-structure parking, or in multi-level parking above or below surface lots, do not apply toward the maximum number of allowable spaces. Where a fractional number of spaces results, the maximum number of spaces is rounded down to the nearest whole number. This section does not apply to single-family residential dwellings.

Table 16.114-13 Maximum Vehicle Parking Spaces

Maximum Off-Street Parking Requirements		
Use Categories	Specific Uses	Maximum Vehicle Parking
A. Residential Categories		
1. Single-Family	Single-family Attached/Detached	Not Applicable

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Maximum Off-Street Parking Requirements		
Use Categories	Specific Uses	Maximum Vehicle Parking
	Duplex, Triplex, Fourplex	Not Applicable
	Residential Care	Not Applicable
	Manufactured Home	Not Applicable
	Mobile Home	Not Applicable
2. Multi-dwelling/ Group Living	Studio/ 1 Bedroom	1.5 spaces per unit.
	2 or more Bedrooms	2.25 spaces per unit.
C. Commercial Categories:		
1. Retail Sales and Service	Retail, Personal Service, Repair	1 space per 200 square feet.
	Retail, Repair Large Merchandise such as Home Appliances, Furniture	1 space per 600 square feet of gross floor area.
	Restaurants, Health clubs, meeting rooms	1 space per 133 square feet of gross leasable floor area.
	Motel	1.5 spaces per guest room, plus 1 space for the manager.
	Theater	1 space per 2.66 seats.
2. Office	Professional Government	1 space per 200 square feet.
	Medical, Dental	1 space per 200 square feet.
3. Automotive	Vehicle Repair	1 space per 6,000 square feet, or 2 minimum.
	Quick Vehicle Service, Car Wash	1 space per 6,000 square feet, or 2 minimum.
D. Institutional Categories:		
1. Public Safety Facilities		Number determined as part of conditional use.
2. Community	Parks and Open Space, Meeting Recreation Halls, Recreation Buildings	1 space per 7,000 square feet of gross area, or 1 space per 700 square feet of building floor area, whichever is greater.
3. Schools	Grades K-12	0.3 per staff and students
4. Religious assembly		1 space per 2.66 seats in the main worship area.
5. Utilities		1 space per 1.5 employees on the largest shift, or 1 space for each 350 square feet of gross floor area, plus 1 space per fleet vehicle.

3. Availability. Parking spaces may not be used for the parking of equipment or storage of goods or inoperable vehicles. Parking spaces may not be assigned in any way to a use on another site, except for shared parking situations.

4. Location.

- a. Vehicle parking is allowed only on approved streets, within garages, carports, and other structures, or on driveways or parking lots that have been developed in conformance with this code. Vehicle parking must not be located in a vehicle travel lane (including emergency or fire access lanes).
- b. Surface parking areas shall be located on the site to serve the intended users of the development safely and conveniently, without precluding future site intensification.
- c. Surface parking areas shall occur to the side or rear of buildings.
- d. Off-street surface vehicle parking areas, detached garages, and attached or detached carports associated with mixed-use, multi-family dwelling, or commercial buildings may not be located closer to a street property line than the building closest to that street property line.
- e. Parking spaces shall be so located and served by an access that their use will require no backing movements or other maneuvering within a street or right-of-way.

5. ADA accessible parking spaces.

- a. When parking is provided on-site, accessible parking must be provided for disabled persons, in conformance with the Federal Americans with Disabilities Act (ADA). On-site accessible parking facilities must comply with the design requirements of the current building code as adopted by the State of Oregon.

6. Shared Parking. Shared parking between two or more uses is permitted when all the following criteria are satisfied:

- a. Satisfactory legal evidence is presented to the city manager in the form of deeds, leases or contracts to establish the shared use;
- b. The other applicable standards of this title can be met; and

7. Electrical service capacity.

- a. Newly constructed multifamily residential buildings with five or more residential dwelling units, and newly constructed mixed-use buildings consisting of privately owned commercial space and five or more residential dwelling units, shall provide sufficient electrical service capacity, as defined in ORS 455.417, to accommodate no less than 40 percent of all vehicle parking spaces serving the residential dwelling units. Dwelling units in townhouses are not included for purposes of determining the applicability of this regulation.

8. Maintenance.

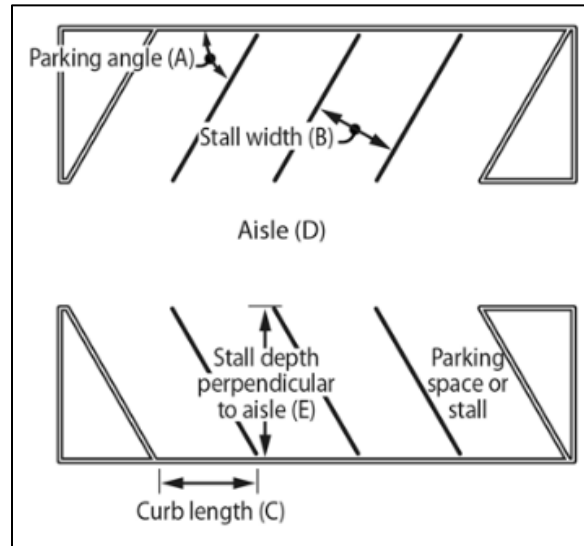
- a. When provided, parking spaces shall be designed and maintained by the owner of the property.

- b. All off-street vehicle parking spaces and maneuvering areas must have a durable and paved surface and shall be maintained for all-weather use. The use of pervious concrete, pervious paving, driveway strips, or an in-ground grid or lattice surface is encouraged to reduce stormwater runoff.
9. Parking stall standard dimensions and compact car parking.
- a. All off-street parking stalls must be improved to conform to City standards for surfacing, stormwater management and striping, and provide dimensions in accordance with Table 16.114-14 Parking Stall Dimensions and Figure 16.114-25 Parking Area Dimensions.
 - b. No more than 50 percent of the parking stalls provided on-site can be compact spaces.
 - c. The stopping edge of any curb or wheel stop must be placed no less than two feet from the end of the parking stall.
 - d. Where a curb or wheel stop is provided, the overhang of a vehicle past the curb or wheel stop may be counted as part of the required parking stall depth, up to a maximum of two feet.
 - e. Parking spaces along the boundaries of a parking lot or adjacent to interior landscaped areas or sidewalks shall be provided with a wheel stop that is at least 4-inches high located 3 feet back from the front of the parking space. The front 3 feet of the parking stall may be concrete, asphalt or low-lying landscape material that does not exceed the height of the wheel stop. This area cannot be calculated to meet landscaping or sidewalk requirement.

Table 16.114-14 Minimum Parking Dimensions

Parking Angle (A)	Parking Stall Type	Stall Width (B)	Curb Length (C)	1 Way Aisle Width (D)	2 Way Aisle Width (D)	Stall Depth (Includes bumper overhang) (E)
0°	Standard	8.0 ft.	22.5 ft.	12 ft.	20 ft.	8.0 ft.
	Compact	8.0 ft.	22.5 ft.	12 ft.	20 ft.	8.0 ft.
30 °	Standard	9.0 ft.	9.0 ft.	12 ft.	20 ft.	16.0 ft.
	Compact	8.0 ft.	8.0 ft.	12 ft.	20 ft.	15.0 ft.
45 °	Standard	9.0 ft.	9.0 ft.	12 ft.	20 ft.	16.0 ft.
	Compact	8.0 ft.	8.0 ft.	12 ft.	20 ft.	15.0 ft.
60 °	Standard	9.0 ft.	9.0 ft.	16.0 ft.	20.0 ft.	16.0 ft.
	Compact	8.0 ft.	8.0 ft.	16.0 ft.	20.0 ft.	15.0 ft.
90 °	Standard	9.0 ft.	8.5 ft.	16.0 ft.	20.0 ft.	16.0 ft.
	Compact	8.0 ft.	8.5 ft.	16.0 ft.	20.0 ft.	15.0 ft.

Figure 16.114-25 Parking Area Dimensions



- D. Loading area requirements. All off-street vehicle loading areas for passengers or goods must:
1. Include sufficient area for turning and maneuvering of vehicles on site.
 2. Be designed such that vehicle stacking does not impact any public right-of-way, vehicle travel lane, or emergency or fire access lanes.
- E. Bicycle parking requirements: Bicycle parking shall be provided in conjunction with all new mixed-use, dwelling, multi, commercial, and municipal developments in Kingston Terrace District. This section does not apply to single-family, residential dwellings.
1. Number of bicycle parking spaces. Table 16.114-15 lists applicable standards.

Table 16.114-15 Minimum Bicycle Parking Requirements

Minimum Bicycle Parking Requirements		
Use Categories	Specific Uses	Minimum Bicycle Parking
A. Residential Categories		
1.Single-Family	Dwelling Single-family Detached/ Attached	Not Applicable
	Duplex, Triplex, Fourplex	
	Residential Care	
	Manufactured Home	
	Mobile Home	
2.Dwelling, multi/ Group Living	Studio/ 1 Bedroom	1 space per unit.
	2 or more Bedrooms	1 space per unit.
B. Commercial Categories:		
1.Retail Sales and Service	Retail, Personal Service, Repair	1 space per 2,500 square feet of floor area, or 2 spaces minimum.
	Retail, Repair Large Merchandise such as Home Appliances, Furniture	

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Minimum Bicycle Parking Requirements		
Use Categories	Specific Uses	Minimum Bicycle Parking
	Restaurants, Health clubs, meeting rooms	
	Motel	1 space per 10 rooms, or 2 spaces minimum
	Theater	1 covered space for every 20 seats, or 1 space per 20 persons allowed by Building Code.
2. Office	Professional Government	1 space per 2,500 square feet of floor area, or 2 spaces minimum
	Medical, Dental	
3. Automotive	Vehicle Repair	2 covered spaces.
	Quick Vehicle Service, Car Wash	
C. Institutional Categories:		
1. Public Safety Facilities		1 space per 4,000 sq. ft., or 2 spaces minimum.
2. Community	Parks and Open Space, Meeting Recreation Halls, Recreation Buildings	2 spaces within 50 feet of each developed playground, ball field, and shelter; or a minimum of 8 spaces per park.
3. Schools	Grades K-12	4 per classroom for grades 4-12.
4. Religious assembly		1 covered space for every 20 seats, or 1 space per 20 persons allowed by Building Code in the main assembly room.
5. Utilities		1 space per 4,000 sq. ft., or 2 spaces minimum.

2. Bicycle parking shall be located no more than 50 feet from a primary entrance in the closest available area to the primary entrance as determined by the decision-making authority.
3. Bicycle parking facility design.
 - a. Bicycle parking facilities shall either be lockable enclosures in which the bicycle is stored, or secure stationary rack which supports the frame so the bicycle cannot easily be pushed or fall to one side. Racks that require a user-supplied lock shall accommodate locking the frame and both wheels using either a cable or U-shaped lock.
 - b. Bicycle parking spaces shall be at least 6 feet long and 2.5 feet wide, and overhead clearance in covered spaces shall be a minimum of 7 feet.
 - c. A 5-foot aisle for bicycle maneuvering shall be provided and maintained beside or between each row of bicycle parking.
 - d. Bicycle racks or lockers shall be securely anchored.

- e. Required bicycle parking shall be located in a well-lit secure location within 50 feet of an entrance to the building, but not farther from the entrance of the building than the closest standard or compact vehicle parking space.
- f. Bicycle parking shall not obstruct walkways. A minimum 5-foot-wide aisle shall remain clear.
- g. If 10 or more bicycle spaces are required for commercial or institutional developments, then at least 50 percent of the bicycle spaces must be sheltered under an eave, overhang, independent structure, or similar cover. A lockable enclosure shall be considered as a covered parking space.
- h. All of the required bicycle parking for residential uses shall be covered. This may include space provided in a carport or garage.

16.114.140 Provision of Adequate Public Facilities

- A. Purpose. The purpose of this section is to address the provision of the infrastructure systems necessary to benefit and serve all property in the Kingston Terrace District as provided for in the Kingston Terrace Master Plan and King City's Transportation System Plan.
- B. Public improvements. Public infrastructure, mobility, development, and natural system improvements include, but are not limited to the following:
 - 1. Sanitary sewer infrastructure,
 - 2. Water infrastructure,
 - 3. Stormwater management infrastructure,
 - 4. Arterial street improvements,
 - 5. Collector streets,
 - 6. Neighborhood routes,
 - 7. Bicycle and pedestrian facilities,
 - 8. Public parks and open spaces, and
 - 9. Community recreation facility.
- C. Annexation agreement.
 - 1. Purpose. The annexation agreement is intended to ensure awareness of the annexation process as well as reasonable certainty to the property owner, the City, and the public that the scope and timing of subsequent development of the property will occur in a manner that facilitates the timely and equitable construction of necessary infrastructure improvements. The agreement is intended to describe the proposed use of the property following annexation, the process for development, the parties' commitments regarding the

subsequent development, and the infrastructure anticipated to be necessary to support development.

2. Applicability. Unless waived by the City, an annexation agreement consistent with this section shall be executed concurrently with any owner-initiated annexation application.
3. Contents. Unless otherwise agreed by the City, an annexation agreement must include the following information and, at a minimum, address the following elements to the City's satisfaction:
 - a. A legal description of the property;
 - b. The current zoning;
 - c. The proposed zoning consistent with Section 16.114.030;
 - d. The owner's intended urban use of the property, including type, size, and density, in sufficient detail to allow the City to determine impacts to existing natural resources, land use, transportation network, and public infrastructure to identify improvements and permitting necessary to support the intended use and demonstrate conformance with the Kingston Terrace Master Plan, King City's Transportation System Plan, Comprehensive Plan, and applicable state and Metro requirements.
4. General provisions.
 - a. An annexation agreement expires 2 years from the last date it is signed by the parties unless the City has received a development plan review application for the property and deemed the application complete prior to the 2-year expiration date.
 - b. The provisions of an annexation agreement may be included in and made part of a subsequent land use decision, in which case the provisions of the land use decision supersede any conflicting provisions in the annexation agreement.
 - c. An annexation agreement is not effective and binding on the parties until the annexation application is approved by the City Council in accordance with Chapter 16.192 - Annexation.

D. Development agreement.

1. Purpose. A development agreement is intended to provide reasonable certainty to the property owner, the City, and the public that the scope and timing of development of the property will occur in a manner that facilitates the timely and equitable construction of necessary infrastructure, mobility, development, and natural system public improvements. The development agreement shall describe in greater detail the owner's intended use of the property, the parties' commitments regarding subsequent development of the property, in public improvements determined to be necessary to support development, and the parties' obligations with respect to financing and constructing the improvements.

2. Applicability. A development agreement consistent with this Section may be required as a condition of approval of a development plan review application.
 3. Contents. Unless otherwise agreed by the City, the development agreement must include the following information and, at a minimum, address the following elements to the City's satisfaction:
 - a. A description of the anticipated type and scope of residential or commercial development, including the number of housing units, consistent with the Kingston Terrace Master Plan;
 - b. The proposed timing and any phasing of the development as it relates to available or planned infrastructure capacity;
 - c. The financing and development obligations for any required or necessary infrastructure;
 - d. The owner's commitment to design and construct amenities that further the goals and objectives of the Kingston Terrace Master Plan;
 - e. A detailed plan for financing and constructing complete and connected arterial and/ or collector or neighborhood route planned streets where the full right-of-way is under the control of the owner or developer, such that a new collector or arterial street is not terminated without connecting to another improved street. A "complete street includes both adjacent and opposite side full street improvements, including public and private utilities, where required;
 - f. A detailed plan for financing and construction of public parks, trails, and open spaces on properties where a public park, trail, or open space is identified on the property according to Figure 3.4 Parks and Open Space System Diagram of the Kingston Terrace Master Plan; and
 - g. A detailed plan for financing and construction of water, sanitary sewer, and stormwater management public facilities identified to serve the property as identified in the Kingston Terrace Master plan.
 4. General provisions. The provisions of a development agreement may be included in and made part of a subsequent land use decision, in which case the provisions of the land use decision supersede any conflicting provisions in the development agreement.
 5. Unless expressly authorized in a development approval, the imposition of private fees or any charge whatsoever that prohibits, restricts, or impairs adjacent or surrounding properties from accessing a public easement, facility, or service is prohibited.
- E. Exceptions permitted.
1. An exception to one or more of the requirements of this Section may be obtained through a development plan review administered and reviewed in accordance to Section 16.114.140.

2. An exception will be granted only if the applicant:
 - a. Demonstrates that the exception will not materially impact implementation of the Kingston Terrace Master Plan and King City’s Transportation System Plan;
 - b. Has proposed alternatives that ensure the applicant will provide its proportional share of the funding and construction of the facilities in a timely manner as identified in the Kingston Terrace Master Plan and King City Transportation System Plan.

16.114.150 Development Plan Review Process

- A. Purpose. The purpose of development plan review is to establish a process and standards for development within the Kingston Terrace District that is consistent with the Kingston Terrace Master Plan, the comprehensive plan, and this title to ensure that transportation, public infrastructure, and other facilities are provided to support the anticipated development.
- B. Applicability. Development plan review shall be applicable to all new development and major modifications of approved development plans in the Kingston Terrace District, except it shall not apply to:
 1. New construction or additions to existing single-family detached or attached dwellings, duplexes, quadplexes, triplexes, cottage clusters, or accessory dwelling units on existing lots.
 2. Middle housing development on an existing lot is allowed outright subject to design and dimensional standards and HCA standards but exempt from development plan review.
 3. A change in the type and location of accessways and parking areas where off-site circulation would not be potentially affected.
 4. Minor modifications as provided in Section 16.114.150.Q.
- C. Administration.
 1. Development plan applications and major modifications to approved development plans shall be administered and reviewed as a Type III planning commission review in accordance with Article II of this title.
 2. Minor modifications to a development plan as described in Section 16.114.150.Q, shall be administered as a Type II city manager decision in accordance with Article II of this title.
 3. Permits for residential construction as identified in Section 16.114.150.B.2. shall be administered and reviewed as a Type I administrative decision in accordance with Article II of this title.
- D. Submittal requirements.
 1. In addition to the application form and information required in Section 16.44.030, the applicant shall submit each of the following:
 - a. A site plan, with the number of copies to be determined at the preapplication conference, and necessary data or narrative which explains how the development conforms to the standards, and:
 - i. The scale for site plan shall be an engineering scale; and

- ii. All drawings of structure elevations or floor plans shall be a standard architectural scale, being one-fourth inch or one-eighth inch.
 - b. The site plan, data, narrative, and reports shall include the following:
 - i. An existing site conditions analysis as described in Section 16.114.150.E;
 - ii. A site plan, as detailed in Section 16.114.150.F;
 - iii. A grading plan as detailed in Section 16.114.150.G;
 - iv. Architectural elevations of all structures as detailed in Section 16.114.150.I;
 - v. A landscape plan as detailed in Section 16.114.150.J;
 - vi. A preliminary subdivision, partition, or lot line adjustment as detailed in Section 16.114.150.K, if applicable.
 - vii. A traffic impact analysis based on the type and intensity of the proposed land use change or development and its estimated level of impact to the existing and future local and regional transportation systems.
 - viii. Service provider letters from Clean Water Services and Tigard Water Department documenting capacity available to serve proposed land use change or development.
 - ix. A phasing plan that depicts phased construction of development area including public transportation and utility improvements as needed; and
 - x. A copy of all existing and proposed restrictions or covenants.
 - 2. The manager may require information in addition to that required by this chapter when it is found that certain information is necessary to properly evaluate the application.
 - 3. The manager may waive a specific requirement for information when it is found that such information is not necessary to properly evaluate the application.
- E. Site analysis drawings shall include:
 - 1. A vicinity map showing streets and access points, pedestrian and bicycle pathways, transit stops and utility locations.
 - 2. The site size and its dimensions.
 - 3. Contour lines at two-foot contour intervals for grades zero to ten percent and five-foot intervals for grades over 10 percent.
 - 4. The location of drainage patterns and drainage courses.
 - 5. The location of natural hazard areas including:
 - a. The one hundred-year floodplain;
 - b. Slopes in excess of 25 percent;
 - c. Unstable ground (areas subject to slumping, earth slides or movement);
 - d. Areas having a severe soil erosion potential; and
 - e. Areas having severe weak foundation soils.

6. The location of resource areas including those identified in the Natural Systems section of the Kingston Terrace Master Plan:
 - a. Class A and B Upland Wildlife Habitat Conservation Areas;
 - b. Class I and II riparian areas;
 - c. Wetlands;
 - d. Trees with six inches diameter or greater measured four feet from ground level; and
 - e. Streams and drainageways.
7. The location of existing structures on the site and proposed use of those structures.
8. The locations and types of noise sources on the site or on adjoining property such as traffic ways, mechanical equipment or noise producing land uses if requested by the city manager. See Section 8.04.130 for noise provisions.
- F. The proposed site plan shall be at the same scale as the site analysis and shall include the following information:
 1. The proposed site and surrounding properties.
 2. Contour line intervals as required by Section 16.114.150.E.
 3. The location, dimensions, and names of all:
 - a. Existing and platted streets and other public ways and easements on the site and on adjoining properties, and
 - b. Proposed streets or other public ways and easements on the site.
 4. The location and dimensions of:
 - a. Entrances and exits on the site;
 - b. Parking and circulation areas;
 - c. Loading and service areas;
 - d. Pedestrian and bicycle circulation;
 - e. Outdoor common areas; and
 - f. Above ground utilities.
 5. The location, dimensions and setback distances of all:
 - a. Existing structures, improvements and utilities on the site or which are located on adjacent property within twenty-five feet of the site and are permanent in nature; and
 - b. Proposed structures, improvements and utilities on the site.
 6. The location of all areas to be landscaped.
 7. The location and type of outdoor lighting, considering crime prevention techniques.
 8. The location of proposed utility lines.
 9. The location of all structures and their orientation.

10. The size and location of mixed solid waste and recyclables storage areas.
- G. The site plan shall include a grading plan at the same scale as the site analysis drawings and shall contain the following information:
 1. Requirements in Sections 16.114.150.E. and 16.114.150.F.
 2. The location and extent to which grading will take place indicating general contour lines, slope ratios and slope stabilization proposals.
 3. A statement from a registered engineer supported by factual data substantiating:
 - a. That any increase in intensity of the runoff caused by development must be facilitated on the site and the intensity of runoff leaving the site in its developed state shall not exceed that in its undeveloped state. The statement shall include as a minimum a storm frequency of occurrence of ten years or greater, depending upon evaluation of potential for damage when a storm of higher frequency occurs.
 - b. When on-site detention of an increased volume of water caused by development is not feasible or acceptable, a plan which identifies and mitigates any off-site adverse effects resulting from increased runoff shall be prepared by a registered civil engineer.
 - c. Compliance with Clean Water Services requirements for erosion control during construction.
- H. Geotechnical report prepared by a certified geotechnical engineer that addresses:
 1. Existing soil conditions,
 2. Recommended erosion control and slope stabilization measures, and
 3. Recommended plan for soil treatment, such as stockpiling of topsoil.
- I. The application shall include architectural drawings providing:
 1. Floor plans indicating the square footage of all structures proposed for use on-site.
 2. Typical elevation and section drawings of each structure, including exterior finish materials.
 3. Exterior mechanical equipment.
- J. The landscape plan shall be drawn at the same scale as the site analysis plan, or a larger scale if necessary, and shall indicate:
 1. Location of underground irrigation system sprinkler heads where applicable.
 2. Location and height of fences, buffers and screening.
 3. Location of terraces, decks, shelters, play areas and common open spaces.
 4. Location, type, size and species of existing and proposed plant materials.
- K. Any proposed land divisions or lot line adjustments shall provide the applicable submittal requirements in Chapters 16.196 Subdivision, or 16.200 Major and Minor Land Partitions and Lot Line Adjustments.
- L. Drawings for any proposed signs including:
 1. Location of any freestanding, wall or building signs.

2. Scaled sign plans showing the dimensions, height, color, material, and means of illumination.
- M. Approval standards. The decision-making authority shall approve a Development Plan Review application when the following standards are demonstrated to be met in the Plan:
1. The Development Plan complies with the applicable standards of this title;
 2. The location and alignment of streets, paths and trails, parks and open spaces and uses in proposed in the Development Plan are consistent with the Regulating Plan;
 3. Public infrastructure improvements will be designed and located to adequately serve the proposed development and not unduly or unnecessarily restrict the ability of any other property to develop; and
 4. If the Development Plan is phased, the phasing sequence is reasonable.
- N. Adjustments. The decision making-authority may approve a Development Plan Review application that proposes an adjustment provided that:
1. The adjustment does not result in more than a 20 percent change in applicable dimensional or design standards;
 2. The Development Plan Review proposal complies with all other applicable requirements of this chapter; and
 3. The proposed adjustment does not materially alter compliance with the Regulating Plan.
- O. Minor Modification. Modification to an approved development plan may be approved provided it satisfies the following standards:
1. Does not change the originally approved development plan boundary.
 2. Does not result in a density decrease of greater than 10 percent from what was specified in the approved development plan.
 3. Does not change the amount of land area devoted to residential, mixed-use, or municipal land uses by greater than 10 percent from what was specified in the approved development plan.
 4. Modifications to the location or alignment of streets or pedestrian paths, plazas, or parks as approved in the development plan, provided their functionality and performance is consistent with the approved development plan.

Article I. Introduction and General Provisions

Chapter 16.24 DEFINITIONS

16.24.020 Definitions of specific terms.

“Impervious surface” means pavement, maintained gravel areas, structures, public and private roadways, sidewalks, roofs, and other hard surfaces which are not specifically designed to allow water to infiltrate.

“Tree grove” means a group of trees with an average diameter at breast height (dbh) of 6 inches or greater and height over 30 feet that form a contiguous canopy with an average diameter of at least 150 feet.

“Tree canopy” means the total ground area covered by a tree or grove of trees, as measured at the outer limit of tree branches or crown, projected to the ground. This is also referred to as the tree drip line.

“Tree” means a living, standing woody plant having a trunk diameter six inches or more in diameter at breast height (dbh) of 6 inches or more in diameter, maximum cross section, greater at four feet above mean ground level at the base of the trunk.

Sign Definitions (related to Chapter 16.148):

13. ~~“Ideological sign” means a sign which communicates a political, moral, philosophical or religious sentiment but which does not promote any commercial purpose or refer to a political candidate or election measure.~~
16. “Lawn sign” means a freestanding sign made of lightweight materials such as cardboard or vinyl that is supported by a frame, pole, or other support structure placed directly in the ground without foundation or other anchor.
24. ~~“Political sign” means a temporary sign pertaining to any general, primary or special election.~~
29. ~~“Real estate sign” means a temporary sign which advertises specific real property for rent, lease, sale or future development.~~

Note: numbering of the sign definitions to be adjusted accordingly.

Wetland Protection Area Definitions

“Jurisdictional delineation” means 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 141-90-005 et seq. for specifications for wetland delineation or determination reports.]

“Locally significant wetland (LSW)” means a wetland that is determined to be significant under the criteria of OAR 141-86-0300 et seq. These criteria include but are not limited to those wetlands that score a high rating for fish or wildlife habitat, hydrologic control, or water quality improvement functions.

“Local Wetlands Inventory (LWI)” means maps and reports adopted by King City including, Figure

16.114-10 and any subsequent revisions as approved by the Oregon Department of State Lands. The LWI is a comprehensive survey of all wetlands at least ½ acre in size within the urbanizing area. Wetlands less than ½ acre in size are shown as “Probable Wetlands” (PWs). Other waters and artificial features are also shown on the LWI.

“Oregon Freshwater Wetland Assessment Methodology (OFWAM)” means a wetland function and quality assessment methodology developed by the Oregon Department of State Lands.

“Wetland” means an area inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and which, under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

“Wetland protection area” means an area subject to the provisions of this chapter that includes all wetlands determined to be locally significant.

“Wetland resource map” means the locally adopted map used as the basis for this ordinance, which incorporates Oregon Department of State Lands (DSL) - approved Local Wetland Inventory (LWI) map and identifies locally significant wetlands.

16.24.030 Definitions of land use types.

C. Residential Use Types.

"Dwelling, multi" means a structure that contains ~~three~~ **five** or more dwelling units which may share common walls, floors or ceilings with one or more than two dwelling units on one lot. Dwelling units may be attached or detached.

“Dwelling, single-family attached” means a dwelling unit, located on its own lot, that shares one or more common or abutting walls with one or more dwelling units. It does not share common floors or ceilings with other dwelling units. Also referred to as a townhome or townhouse.

"Triplex" means a structure that contains three primary dwelling units on one lot. The units may share common walls, floors or ceilings.

“Fourplex” means a structure that contains four primary dwelling units on one lot. The units may share common walls, floors or ceilings.

Article II. Procedures
Chapter 16.32 INTRODUCTION

16.32.010 Introduction.

This article establishes the procedures to be used in reviewing and taking action on development proposals.

Chapter 16.36 DEVELOPMENT PERMIT

16.36.010 Permit required.

Except as excluded in Section 16.36.020, no person shall engage in or cause a development to occur, as defined in Chapter 16.24, without first obtaining a development permit through the procedures set forth in this title. The manager shall not issue any permit for the construction, reconstruction or alteration of a structure or a part thereof without first verifying that a valid development permit has been issued. Development authorized by a development permit shall occur only as approved by the city.

16.36.020 Exclusions from permit requirement.

The following activities are permitted in each district but are excluded from the requirement of obtaining a development permit. Exclusion from the permit requirement does not exempt the activity from otherwise complying with all applicable standards, conditions and other provisions of this title.

- A. Landscaping or other treatment or use of the land surface outside any flood plain, wetland and drainageways and not involving a structure or paved parking lot;
- B. Any change or repair to a building or other structure that does not alter or expand the use thereof or require a building permit;
- C. An emergency measure necessary for immediate safety of persons or protection of property, provided however, that an application for a development permit shall be promptly filed if the measure otherwise would require such a permit but for the emergency;
- D. The establishment, construction, maintenance, preservation or termination of public roads, transportation facilities and other public facilities including sewer and water lines, electrical and gas distribution lines, and telephone and television transmission lines that are substantially in the public right-of-way directly serving development or as shown on the comprehensive plan or adopted Public Facility Plan, together with piping and culverts, accessory drainage systems such as catch basins, and necessary accessory structure and easements. Notwithstanding this exemption, said facilities within sensitive lands, shall obtain a development permit as provided in this title. This permit shall be approved if the applicant demonstrates compliance with the applicable approval standards.
- E. Construction, maintenance or demolition of an accessory structure not requiring a building permit except for agricultural accessory structures which shall be reviewed for locational and dimensional standards;
- F. The following excavations or fills, unless a development permit is required by the sensitive lands provisions in Chapter 16.140:
 - 1. Excavations below finish grade for basements and footings of a building, retaining wall or other structure authorized by a valid development permit;
 - 2. Excavations for wells, tunnels or utilities;
 - 3. Excavations or fills for public projects, conducted by or under contract of the city;

4. Exploratory excavations affecting or disturbing areas less than six thousand square feet in size, under the direction of soil engineers or engineering geologists;
 5. Access roads developed to support forest-related activities, agricultural crop production or grazing activities, where the roads:
 - a. Are located on property used for an interim agricultural or forest use,
 - b. Do not create a cut or fill greater than three feet in height visible from a public road,
 - c. Are sixteen feet or less in width,
 - d. Do not divert drainage onto or cause increased erosion on adjacent properties, and
 - e. Do not discharge or threaten to discharge silt onto adjacent properties or into streams.
 6. Grading that is a soil or water conservation project regulated by the U.S. Department of Agriculture, Soil Conservation Service, and/or the Washington County Soil and Water Conservation District;
 7. An excavation which is less than two feet in depth, or which does not create a cut slope greater than five feet in height and steeper than one and one-half horizontal to one vertical;
 8. A fill less than one foot in depth and placed on natural terrain with a slope flatter than five horizontal to one vertical, or, a fill less than three feet in depth, not intended to support structures, which does not exceed one hundred fifty cubic yards on any one lot and does not obstruct a drainage course;
 9. Underground pipes and conduits; and
 10. Above ground electrical transmission, distribution, communication and signal lines on a single pole system where a single pole system is defined as above ground electrical lines and their supporting concrete, wood or metal poles, but does not include self-supporting steel lattice-type structures.
- G. Continued use of a valid nonconforming use or exercise of a vested right, except that any change, alteration, restoration or replacement of a nonconforming use shall require a development permit as provided in Chapter 16.160.
- H. Family day care provider as defined in Chapter 16.24 and as allowed in the zoning districts in Article III.

16.36.030 Issuance and effective date.

- A. The manager shall issue a development permit within seven calendar days of any administrative approval. The development permit shall be effective upon issuance.
- B. The manager shall issue a development permit within seven calendar days after the date the appeal period has expired, if no petition for review is filed, in city manager or planning commission decisions. Except as provided below, no development permit shall be issued pending appeal.
- C. In the event that a final approval of the city council is appealed to a body of competent jurisdiction, the development permit shall be issued after notice of the decision is provided and it shall be the responsibility of the person appealing the city council decision to seek appropriate judicial remedies halting action upon the permit. Notwithstanding issuance, however, the holder of the permit may proceed at the permit holder's own risk. If the permit holder proceeds, the holder shall be deemed to have expressly assumed all risk of proceeding and shall save and hold harmless King City from any responsibility or liability for proceeding with development. If a holder proceeds at his/her own risk and the development permit is ultimately reversed by a body of competent jurisdiction, the holder shall restore the property to its original condition.
- D. Every development permit shall be specific as to the approval granted or development authorized. It shall be subject to the standards and conditions set forth in this title, excepting only those variances or exceptions

authorized by the approval authority, together with any conditions imposed by the approval authority. The development permit shall be effective immediately unless otherwise conditioned.

16.36.040 Expiration.

Except as otherwise specifically provided in this title, a development permit shall expire automatically one year from the date of issuance unless one of the following occurs first:

- A. The development permit is revoked as provided for in Section 16.36.070 or as otherwise invalidated by a body of competent jurisdiction; or
- B. An application for an extension is filed and approved pursuant to Section 16.36.050; or
- C. The development has commenced as provided in Section 16.36.060.

16.36.050 Extension and modification.

- A. If an extension is desired, the holder of the development permit must file an application for an extension prior to expiration of the development permit or the first extension, whichever is applicable. Extension requests shall be processed as an administrative action. A maximum of two extensions may be granted. Only one extension may be granted at a time and no extension may be granted for a term of more than one year.
- B. The city manager shall, upon written request by the applicant and payment of the required fee, grant an extension of the approval period not to exceed one year, provided that:
 - 1. No changes are made on the original plan as approved by the approval authority;
 - 2. The applicant can show intent of initiating construction on the site within the one year extension period; and
 - 3. There have been no changes to the applicable comprehensive plan policies and ordinance provisions on which the approval was based.
- C. Notice of the decision shall be provided to the applicant. The city manager's decision may be appealed by the applicant as provided by Chapter 16.68.

16.36.060 When a development has commenced.

- A. The authorized development has been commenced when the holder of the development permit has physically altered the land or structure or changed the use thereof and such alteration or change is directed toward completion and is sufficient in terms of time, labor or money spent to demonstrate a good faith effort to complete the development. In the case of development requiring a building permit, issuance of the building permit shall be conclusive evidence of commencing development. Nothing herein, however, shall be deemed to extend the life of said building permit as provided by law. A development permit which otherwise would have expired but for issuance of a building permit shall expire automatically upon expiration of the building permit.
- B. In the case of development authorized to be done in phases, each phase must be commenced within the time frame specified in the approval, or commenced within one year of completion of the prior phase if no time table is specified. The date of phase completion in the case of a structure or structures shall be the date of issuance of an occupancy permit by the manager for eighty percent or more of the structure or structures of the development phase.
- C. The determination of commencement shall be made by the manager as an administrative decision.

16.36.070 Revocation of development permit.

- A. Revocation shall be processed by the manager as an administrative action. A development permit may be revoked upon a finding of:
 - 1. Noncompliance with the standards or conditions set forth in this title, or any special conditions imposed upon the permit;
 - 2. Intentional fraud, misrepresentation or deceit upon the part of the applicant as to an issue material to the issuance of the development permit;
 - 3. Abandonment or discontinuance as determined by failure to make reasonable progress toward completion of a commenced development for a continuous period of one year. Bona fide good faith efforts to market the development shall not constitute abandonment or discontinuance; or
 - 4. A change in this title, the comprehensive plan or state law which would make the approved development unlawful or not permitted, prior to the development obtaining a vested right or nonconforming use status.
- B. Revocation shall be effective immediately upon the city providing written notice thereof to the holder of the development permit. Unless provided otherwise by the revoking authority, revocation terminates the authority to continue the use. Continued use without a current valid development permit shall be a violation of this title.
- C. The holder of a revoked development permit may reapply for a new permit at any time as an entirely new application.
- D. Revocation is available in addition to and not in lieu of any other remedy provided by law and is not a condition precedent to any such remedy.

16.36.080 Transferability of development permit.

Unless otherwise provided in the development permit, it shall apply to the property and may be transferred to a new property owner.

*Chapter 16.40 TYPES OF DEVELOPMENT ACTIONS AND DETERMINATION OF
PROPER PROCEDURE*

16.40.010 Type I Administrative actions.

- A. Type I ~~a~~Administrative actions involve permitted uses or development governed by clear and objective review criteria. Administrative actions do not encompass discretionary land use decisions. Impacts have been recognized by the development and public facility standards. The intent and purpose of a zoning district is not a consideration for approving these uses.
- B. The following are administrative actions:
 - 1. Those identified in this title as administrative actions; and
 - 2. Notwithstanding any other provision, structures or uses proposed to implement an approved development permit, if consistent with the approval.
- C. Type I ~~a~~Administrative actions shall be decided by the city manager without public notice or hearing. Notice of a decision shall be provided to the applicant or the applicant's representative. The decision may be reconsidered pursuant to Chapter 16.64 or appealed by the applicant as provided in Chapter 16.68. The hearing shall be conducted ~~as~~ by the planning commission, ~~review except that~~ and only the applicant shall be entitled to notice.

16.40.020 Type II City manager review.

- A. ~~Type II~~ Land use actions by the city manager are presumed by this title to be appropriate. They generally involve uses or development for which review criteria are reasonably objective, requiring only limited discretion. Impacts on nearby properties may be associated with these uses which may necessitate imposition of specific conditions of approval to minimize those impacts to ensure compliance with this title.
- B. ~~The following are Type II~~ city manager actions shall be required for land use actions as specified in this title.:
- ~~1. — Uses and activities permitted through a city manager review in Section 16.140.020.B;~~
 - ~~2. — Goal 5 safe harbor review in Section 16.142.030.B;~~
 - ~~3. — Major and minor land partition;~~
 - ~~4. — Lot line adjustment;~~
 - ~~5. — Temporary use;~~
 - ~~6. — Type I home occupation;~~
 - ~~7. — Accessory dwelling units; and~~
 - ~~8. — Communication facilities and structures.~~
- C. Notice of proposed Type II city manager actions shall be sent as provided in Chapter 16.48. A fourteen-calendar day written comment period shall be provided from the time notice is mailed to provide interested persons with an opportunity to submit written comments about the proposed action before the manager makes a decision on the request. Upon close of the comment period the manager shall review all written comments ~~actually~~ received by the city within the comment period and the applicant's response to the comments. The applicant shall have seven calendar days following the close of the comment period to submit a response. The manager may also consider responses to questions prepared by staff ~~that~~which clarify or amplify information, which does not change the original request. Written comments received after the comment period and prior to issuance of a decision do not have to be considered by the manager. The manager shall then issue a decision. The notice of the decision shall be mailed pursuant to Chapter 16.48. Any party as defined in Chapter 16.52 may obtain reconsideration or appeal of the decision as provided in Chapters 16.64 and 16.68.

16.40.030 Type III Planning commission review.

- A. Type III ~~p~~Planning commission actions involve a quasi-judicial review of development or uses, ~~which may be approved or denied,~~ thus requiring the exercise of discretion and judgment when applying the development criteria contained in this title or the comprehensive plan. Impacts may be significant and the development issues complex. Extensive conditions of approval may be imposed to mitigate impacts or ensure compliance with this title and the comprehensive plan.
- B. ~~The following are initial Type III~~ planning commission actions shall be required for land use actions as specified in this title.:
- ~~1. — Uses and activities allowed through a planning commission review in Section 16.140.020 C.;~~
 - ~~2. — Site plan review;~~
 - ~~3. — Conditional use;~~
 - ~~4. — Variance;~~
 - ~~5. — Type II home occupation;~~
 - ~~6. — Subdivision; and~~
 - ~~7. — Determination of unlisted uses.~~

- C. ~~Quasi-Judicial and Legislative Plan Amendments. Quasi-judicial-Type III~~ actions shall be decided by the planning commission after a public hearing. Prior notice shall be given as provided in Chapter 16.52. A ~~quasi-judicial planning commission~~ decision shall be subject to reconsideration or appeal to the city council pursuant to Chapters 16.64 and 16.68. ~~Legislative plan amendments shall be reviewed by the planning commission after a public hearing. The planning commission recommendation shall be forwarded to the city council for its consideration in making a final decision.~~
- D. ~~The Type III process applies to quasi-judicial actions that must be taken by the city council. Type III CC~~ actions shall first be reviewed by the planning commission in a public hearing. The planning commission recommendation shall be forwarded to the city council for its consideration in making a final decision.

16.40.040 Type IV City council review.

- A. Type IV city council actions are generally legislative. They involve the creation, broad scale implementation or revision of public policy. These include, but are not limited to, amendments to the text of the comprehensive plan or the community development code. Large scale changes in planning and development maps also may be characterized as Type IV legislative actions where a larger number of property owners are directly affected.
- B. These actions are made through adoption of city ordinances. The following are Type IV city council review actions:
1. Zone change;
 2. Comprehensive plan amendments (text and/or map);
 3. Community development and zoning code amendment; and
 4. Annexation.
- C. ~~Type IV legislative actions shall be reviewed by the planning commission in a public hearing. The planning commission recommendation shall be forwarded to the city council for its consideration in making a final decision.~~
- ~~DC.~~ Appeals of Type III planning commission decisions shall be reviewed by the city council as a quasi-judicial action described in this title.

16.40.050 Determination of proper procedure type.

- A. Applications in this title must be processed as a ~~Type I~~ administrative, Type II city manager, Type III planning commission, or Type IV city council action in accordance with the standards set forth above. Concurrent actions involving ~~legislative~~quasi-judicial (Type III) and ~~quasi-judicial~~legislative (Type IV) actions shall be separated for proper processing. Questions as to the appropriate procedures shall be resolved by the city manager in favor of the process providing the greatest notice and opportunity to participate. The decision of the manager is not subject to appeal on its own but may be alleged as an error in an appeal of the decision on the proposed development. Upon appeal of the decision on the merits of a development action not specifically classified in this title, the planning commission may determine, based on the standards set forth in Chapter 16.40 that a different procedure type should have been used and direct that the proposed development action be processed accordingly.
- B. Notwithstanding any other provision, and, upon payment of the proper fee, an applicant may choose to have the proposal processed under the procedure type (except ~~legislative~~Type IV) which provides greater notice and opportunity to participate than would otherwise be required.

Chapter 16.44 PROCESSING DEVELOPMENT ACTIONS

16.44.010 Initiation and withdrawal of action.

- A. Development actions, except [Type IV](#) city council actions, may be initiated only by:
 - 1. Application by all the owners or all the contract purchasers of the subject property, or any person authorized in writing to act as agent of the owners or contract purchasers. Contract purchasers shall indicate in writing that the contract vendor(s) has been notified of the application;
 - 2. The city council;
 - 3. The planning commission; or
 - 4. The city manager.
- B. No application shall be deemed complete and further processed if it is determined that any necessary authorization to file has not been obtained. The approval authority may defer further action for such time as it deems reasonable to provide an opportunity to obtain the necessary authorization. Failure to provide such authorization within that time period shall void the application.
- C. The manager may withdraw any application, petition for review or motion for reconsideration at the request of the applicant or petitioner. Once accepted as complete, however, the applicant or petitions shall be entitled to withdraw by right only if the city manager determines that:
 - 1. Written consent to withdraw an application has been obtained from a majority of the owners or contract purchasers or the majority interest holders in the property, or all signers of the petition for review; and
 - 2. No existing violation of this title or the comprehensive plan, which might best be cured by further processing the application, have been identified on the subject property.
- D. If an application, petition for review or motion for reconsideration is withdrawn after public notice has been provided and the approval authority has not rendered a decision, the city manager shall provide written notification to all persons that were entitled to be mailed a public notice of pending review of the city manager or planning commission action and all persons who submitted written comments stating the application has been withdrawn.
- E. Fees for applications and petitions for review withdrawn at the request of the applicant shall be refunded, less the actual costs incurred by the city.

16.44.020 Pre-application conference.

- A. No application for a [Type II](#) city manager or [Type III](#) planning commission development action shall be received by the manager unless the applicant or the applicant's representative has:
 - 1. Attended a pre-application conference with the city manager; or
 - 2. Signed a waiver, on a written statement prepared by the city manager, waiving the pre-application conference requirement.
- B. The purpose of the pre-application conference is to acquaint the applicant or representative with the requirements of this title, the comprehensive plan and other relevant criteria. It is designed to assist the applicant. The applicant assumes the risk for delays or other problems caused by failure to attend. It is impossible, however, for the conference to be an exhaustive review of all potential issues and failure of the city manager to provide any information required by this title shall not constitute a waiver of the policies, standards or criteria relevant to the application.
- C. Pre-application conferences shall be scheduled by the manager at the earliest reasonable time.

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- D. As soon as practicable, the manager shall provide the applicant or representative with a written summary of the meeting.
- E. Information given by the city manager and/or staff to the applicant during the preapplication conference is valid for no longer than ~~six months~~ one year. Another preapplication conference is required if an application is submitted more than six months after the preapplication conference is held.

16.44.030 Application.

- A. Applications for development actions shall be submitted in accordance with the format and upon such forms as may be established by the manager.
- B. A complete application is one which contains the information required to address the relevant standards of the comprehensive plan and this title. It shall consist of the following:
 - 1. A completed original application form, signed by all persons required for initiating an application under Section 16.44.010;
 - 2. A legal description and current Washington County or adjacent jurisdiction's tax map(s) showing the subject property(ies) and all properties within two hundred fifty feet of the subject property;
 - 3. Relevant public facilities information;
 - 4. Additional information required by other provisions of this title and the comprehensive plan;
 - 5. Additional information directly related to the applicable standards of this title or the comprehensive plan as deemed essential by the manager to evaluate adequately the specific application for compliance with those criteria and standards; and
 - 6. The applicable fees adopted by the city council are hereby incorporated by reference as the fees herein. These fees may be amended by resolution and order by the council.

16.44.040 Application submittal and acceptance.

- A. Applications shall be submitted to the manager in the number specified on the application form. The manager, however, may waive copies of specific documents, maps or exhibits upon a determination that the difficulty or burden of copying outweighs the usefulness of the copies.
- B. No application shall be received by the city for determination of completeness without the appropriate application fee.
- C. The date of submission shall be recorded. Within ~~fourteen~~ 30 calendar days the manager shall determine whether the application is complete. The manager shall notify the applicant when the application is accepted as complete or rejected as incomplete if deficiencies are found. Resubmitted applications shall be subject to another ~~fourteen~~ 30 calendar day completeness check.
- D. Upon determination of completeness, applications shall be accepted immediately. The date of acceptance shall be recorded. The manager shall notify the applicant that the application is complete. Unless otherwise directed by the city council, applications shall be processed in the order accepted.
- E. The decision of the manager as to completeness of an application, including any required engineering, traffic or other such studies, shall be based on the criteria for completeness, adequacy and methodology set forth in this title or by resolution and order of the council. Rejection by the manager for incompleteness shall be based solely on failure to address the relevant standards or supply required information and shall not be based on differences of opinion as to quality or accuracy. Acceptance indicates only that the application is ready for review.
- F. Upon rejection for incompleteness, the applicant may object in writing to any alleged deficiencies and direct that the application be processed. During review, the applicant may submit additional information relating to

the alleged deficiencies, but the manager is not obligated to review such information. The staff report may recommend denial or deferral due to insufficient or inaccurate information.

- G. The approval authority shall approve or approve with conditions an application which the manager has determined to be incomplete only if it determines that sufficient, accurate information has been submitted and adequately reviewed by the approval authority with an opportunity for review by affected parties or that conditions can be imposed to ensure proper review at the appropriate time. In all other cases the approval authority shall defer or deny.
- H. All documents or evidence relied upon by the applicant shall be submitted to the city and made available to the public at least twenty calendar days before the hearing. If additional documents or evidence is provided in support of the application, any party shall be entitled to a continuance of the hearing. Such a continuance shall not be subject to the limitations of ORS 215.428 or 227.178.
- I. If additional documents or evidence is provided in opposition to the application, the applicant shall be entitled to a continuance of the hearing.

16.44.050 Staff report.

- A. No decision ~~by the city manager or planning commission on proposed developments~~ regarding a Type II city manager, Type III planning commission, or Type IV city council action shall be made without a staff report. This report shall be provided to the applicant and approval authority without charge. All others may obtain a copy upon request and payment of a reasonable fee to cover the cost of reproduction, overhead and mailing.
- B. A staff report shall be available no later than seven calendar days before a planning commission hearing or any hearing on appeal. Staff reports are mailed approximately seven calendar days prior to the public hearings to the applicant and interested parties who request them. Mailing the report does not guarantee sufficient time prior to the public hearing to respond to the conditions of approval. Obtaining a copy of the staff report in person at the city best assures ample time for review and comment at the public hearing.
- C. Notwithstanding the above, the staff report may be amended as necessary to address issues or information not reasonably known at the time the report is due.
- D. If staff submits additional evidence or an amended staff report in support of the application, any party shall be entitled to a continuance of the hearing. Such a continuance shall not be subject to the limitations of ORS 215.428 or 227.178.
- E. If staff submits additional evidence or an amended staff report in opposition to the application, the applicant shall be entitled to a continuance of the hearing.

16.44.060 Vested rights.

- A. Through a planning commission review procedure, in the course of any city land use process, the commission may decide whether a vested right exists.
- B. Whether a vested right is found to exist shall be based on the consideration of the following factors as well as any guidance from the Oregon courts:
 - 1. The ratio of expenditures incurred to the total cost of the project;
 - 2. The good faith of the landowner;
 - 3. Whether or not the landowner had notice of any proposed zoning or amendatory zoning before starting the improvements;
 - 4. Whether the expenditures have any relation to the project or could apply to various other uses of the land;
 - 5. The kind of project, the location and ultimate cost; and

- 6. Whether the acts of the landowner rise beyond mere contemplated use of preparation, such as leveling of land, boring test holes or preliminary negotiations with contractors or architects.
- C. The city shall not decide an issue of whether a vested right exists unless it is associated with a development action or a legislative process. A vested right issue not associated with an accompanying action shall not be decided by the city and may be subject to the jurisdiction of the Circuit Court of the State of Oregon.

Chapter 16.46 REQUIREMENT FOR COMMUNITY MEETINGS

16.46.010 Community meeting required.

The following types of development applications inside the UGB shall be subject to a requirement for a community meeting:

- A. Site plan review;
- B. Conditional use;
- C. Development plan in Kingston Terrace;
- D. Zone change; and
- E. Subdivision.

16.46.020 Proof of meeting.

The applicant shall be required to hold at least one community meeting prior to submitting an application for approval of one of the application types listed in Section 16.46.010. Applications for development shall not be complete until substantiation of the community meeting has been submitted to the city manager. Substantiation shall include:

- A. Copy of notice of community meeting posted;
- B. Copy of notice mailed to neighbors;
- C. Affidavit, signed by applicant that notice was mailed and posted as required. The affidavit shall be notarized; and
- D. Copy of meeting minutes and notes taken to provide a record, including names and addresses of people attending and all issues raised.

16.46.030 Purpose of meeting.

The purpose of the community meeting is to provide an opportunity for neighbors to review a development proposal and identify issues that may be addressed in a manner consistent with the King City code and to address the issues prior to submission of the application. The community meeting shall occur within one hundred eighty days before submitting a land development application.

16.46.040 Notices.

The applicant shall post a notice of the community meeting on the site of the proposed development not less than twenty calendar days prior to the meeting. The notice shall state that the site may be subject to a proposed development, shall indicate the date, time and location of a community meeting, and shall indicate the name of the applicant and telephone number where applicant or its representative may be reached for more information. Not less than twenty calendar days prior to the meeting, the applicant shall mail written notice of the meeting to the city manager and to all neighbors within two hundred and fifty feet of the property that is proposed to be developed. In addition to the information posted on the site, the notice shall also provide tax lot number(s) of the proposed site,

site address, acreage, current land use designation, and a brief description of the nature of the proposed development.

Chapter 16.48 NOTICE OF DEVELOPMENT ACTIONS

16.48.010 General provisions.

- A. All public notices shall be deemed to have been provided or received upon the date the notice is deposited in the mail or personally delivered, ~~which ever~~whichever occurs first.
- B. The records of the Washington County Department of Assessment and Taxation shall be used for determining the property owner of record. Persons not on file with that department at the time an application is filed need not be notified. Failure ~~actually to~~actually receive notice shall not invalidate an action if a good faith attempt was made to notify all persons entitled to notice. A sworn certificate of mailing issued by the person conducting the mailing shall be conclusive evidence of a good faith attempt to contact all persons listed in the certificate. Mortgagees, lien holders, vendors and sellers receiving notice shall promptly forward a copy by mail to the purchaser.
- C. For notice purposes, the boundary of the subject property shall be the property, which is the subject of the application, together with all contiguous property under identical ownership.
- D. In addition to any other notice for Type II city manager and Type III planning commission development actions, the applicant shall post the subject property in conformance with standards as set forth by the city council Ordinance and Order Number 96-04, amended February 21, 1996 and incorporated by reference herein. No decisions shall be provided until the applicant has filed an affidavit of posting as specified in the resolution and order.

16.48.020 Type I Administrative actions.

- A. No public notice of review is required.
- B. Written notice of the decision of the city manager shall be provided to the applicant.

16.48.030 Type II City manager actions review.

- A. A public notice of pending review shall be mailed to:
 - 1. The applicant and/or representative;
 - 2. All property owners of record within two hundred fifty feet of the subject property.
- B. The public notice shall contain:
 - 1. The name of the applicant or representative and the city case file number;
 - 2. A description of the subject property reasonably sufficient to inform the reader of its location;
 - 3. A concise description of the proposed development action and a listing of review standards;
 - 4. A statement that the complete application, standards and other such information are available at the city for review, and the phone number and name of a city contact person.
 - 5. A statement that this is an opportunity for interested parties to submit written comments about the proposed request; that prior to making a decision, the manager will consider any written comments actually received by the city within a fourteen calendar day comment period; that written comments may be received after the comment period, but that the manager does not have to consider these comments prior to making a decision; that the manager will then make a decision and send a summary of the decision to those persons whose written comments are received by the city, including comments received after the comment period, and those persons who were entitled to be mailed a public notice of

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- pending review of the city manager action pursuant to Chapter 16.48; and that any person entitled to a notice of the decision may appeal or request reconsideration of the decision as provided in Chapters 16.64 and 16.68;
6. The comment closing date, which ends at five p.m. that day, in bold letters; and
 7. The following statement in bold letters NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: ORS chapter 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST BE PROMPTLY FORWARDED TO THE PURCHASER.
- C. After close of the fourteen calendar day comment period, the manager shall promptly issue a decision based upon review of the use of development in light of the applicable standards and the comments received. In addition to comments from those entitled to notice, the manager shall consider the written comments of persons who demonstrate that their substantial rights may be adversely affected or aggrieved by the decision.
- D. Notice of the decision shall be provided to the applicant, all persons who submitted written comments, and all persons who are entitled to be mailed a public notice of pending review of the city manager action pursuant to Chapter 16.48.
1. A brief summary of the nature of the action, the decision and conditions of approval, if any;
 2. A description of the subject property reasonably sufficient to inform the public of its location;
 3. The date the decision was provided and the due date for an appeal;
 4. A statement that the decision may be appealed and a public hearing held by filing a signed petition for review within fourteen calendar days of the date the decision was provided. The statement shall note that the petition shall be filed with the city by five p.m. of the closing date of the appeal period. The elements of a petition for review set forth in Chapter 16.68, and the fee, shall be listed. The statement shall note that only those persons who responded in writing to the notice of pending review and all persons who were entitled to be mailed a public notice of pending review of the city manager action pursuant to Chapter 16.48 are entitled to appeal or request reconsideration of the decision;
 5. A statement that a motion for reconsideration may be filed as provided in Chapter 16.64, but that filing a motion does not stop the appeal period from running; and
 6. A statement that the complete case, including findings and conclusions and conditions of approval, if any, are available for review at the city.

16.48.040 Type III Planning commission review.

- A. Notice of public hearing shall be sent by mail at least twenty calendar days before the hearing.
- B. The notice of public hearing shall be mailed to:
1. The applicant or representative;
 2. All property owners of record within two hundred fifty feet of the subject property; and
 3. Tenants of a mobile home or manufactured dwelling park when a request for a plan amendment which would change the land use designation of the property which includes all or part of the park. Failure of a tenant to receive a notice which was mailed shall not invalidate any plan amendment.
- C. The notice of public hearing shall contain:
1. The name of the applicant or owner;
 2. The nature of the proposed development;
 3. A description of the subject property reasonably sufficient to inform the public of its location;
 4. The designation of the approval authority and the time, date and place of hearing;

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5. A statement that all interested persons may appear and provide testimony that only those making an appearance of record shall be entitled to appeal;
 6. A statement that the hearing will be conducted in accordance with the rules of procedure adopted by the city council;
 7. The following statement: NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: ORS chapter 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST PROMPTLY BE FORWARDED TO THE PURCHASER;
 8. The applicable review criteria that apply to the application;
 9. A statement that failure of an issue to be raised in the hearing, in person or by letter, or failure to provide sufficient specificity to afford the approval authority an opportunity to respond to the issue precludes appeal to the land use board of appeals based on that issue;
 10. The name of a city representative to contact and the telephone number where additional information may be obtained;
 11. A statement that a copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost;
 12. ~~Planning Commission Review~~ A statement that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at reasonable cost; and
 13. A general explanation of the requirements for submission of testimony and the procedure for conduct of hearings. A statement that the record of the hearing shall remain open if a request is made before the close of the public hearing.
- D. In addition to all other notice, at least ten calendar days before a planning commission public hearing ~~for a quasi-judicial plan amendment~~, notice shall be provided in a newspaper of general circulation in the city.
- E. Additional notice of any hearing may be required by the city council.
- F. Notice of the decision shall be provided to all persons who made an appearance of record. The notice shall contain:
1. A brief summary of the decision, and conditions of approval, if any;
 2. A description of the subject property reasonably sufficient to inform the public of its location;
 3. The date the decision was provided and the due date for an appeal;
 4. A statement that the decision may be appealed and a public hearing held by filing a signed petition, along with the required fee, for review within fourteen calendar days of the date the decision was provided. The statement shall note that the petition shall be filed with the city by five p.m. of the closing date of the appeal period. The elements of a petition for review set forth in Chapter 16.68, and the fee shall be listed. The statement shall note that only those persons who made an appearance of record are entitled to appeal or request reconsideration of the decision.
 5. A statement that a motion for reconsideration may be filed as provided in Chapter 16.64, but that filing a motion does not stop the appeal period from running; and
6. **A statement that the complete case, including findings and conclusions, and conditions of approval, if any, are available for review at the city. 16.48.050 Type IV City council review.**

A. Notice of public hearing shall be provided as described in 16.48.040 A. through E..

B. Notice of the decision shall be provided to all persons who made an appearance of record. The notice shall contain:

1. A brief summary of the decision, and conditions of approval, if any;
2. A description of the subject property reasonably sufficient to inform the public of its location;
3. The date the decision was provided and the due date for an appeal;
4. A statement that the decision may be appealed to the Land Use Board of Appeals;
5. A statement that a motion for reconsideration may be filed as provided in Chapter 16.64, but that filing a motion does not stop the appeal period from running; and
6. A statement that the complete case, including findings and conclusions, and conditions of approval, if any, are available for review at the city.

16.48.0650 Notice of hearing and notice of decision on appeal.

Notice of a public hearing conducted by the approval authority to review a Type II decision by the city manager or the planning commission shall be provided in the same manner as required for Type III planning commission actions. Notice of decision on appeal shall be provided to all parties of record. In addition, notice of hearing on appeal to the city council shall be provided to all parties to the hearing conducted by the approval authority.

Chapter 16.52 PUBLIC HEARINGS

16.52.010 Notice.

Notice of public hearing shall be provided in accordance with Chapter 16.48 of this title and the rules of procedure adopted by the city council.

16.52.020 Rules of procedure.

- A. Public hearings shall be conducted in accordance with the rules of procedure adopted by the applicable approval authority.
- B. At the beginning of the hearing for an application, a statement shall be made to those in attendance that:
 1. Lists the applicable substantive criteria;
 2. States that testimony and evidence must be directed toward the criteria described in subsection (B)(I) of this section or other criteria in the plan or land use regulation which the person believes to apply to the decision; and
 3. States that failure to raise an issue with sufficient specificity to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal to the land use board of appeals based on that issue.

16.52.030 Parties.

- A. The following persons, or their authorized representatives, may participate during the comment period or public hearing:
 1. The applicant or applicant's representative and the owners of the subject property;
 2. Those persons entitled to notice; and
 3. Any other person who demonstrates to the approval authority that the person's rights may be adversely affected or aggrieved by the decision.
- B. Only parties shall be entitled to appeal a decision. Only persons who make an appearance of record shall be parties to a city manager or planning commission action. Only the applicant, persons who submitted written comments and persons entitled to notice of pending review shall be deemed parties to a city manager action.

C. Appearance of record shall mean:

1. An oral statement made at the hearing sufficiently identifying the speaker and the speaker's address; or
2. A written statement giving the name and address of the maker of the statement and introduced into the record prior to or at the public hearing. A person's name and address on a petition introduced into the record constitutes an appearance of record.

16.52.040 Record.

- A. Absent mechanical failure or inadvertent error, a verbatim written or mechanical record of the hearing may be made. In addition, written minutes giving a true reflection of the matters discussed and the views of the participants shall be taken. Such minutes shall substitute for a verbatim record in the event of mechanical failure or inadvertent error.
- B. Failure to comply with Section 16.52.040(A) shall not invalidate any action provided that a de novo appeal or other relief is available.

16.52.050 Procedural rights.

Subject to the specific standards and limitations set forth in this title, the following procedural entitlements shall be provided at the public hearing.

- A. A reasonable opportunity for those persons entitled to notice or who may be adversely affected or aggrieved by the decision to present evidence.
- B. A reasonable opportunity for the applicant to rebut evidence submitted by opponents.
- C. An impartial approval authority as free from potential conflicts of interest and pre-hearing ex-parte contacts as reasonably possible. It is recognized, however, that the public has a countervailing right of free access to public officials:
 1. Approval authority members shall disclose the substance of any significant pre-hearing ex-parte contacts with regard to the matter at the commencement of the public hearing on the matter. The member shall state whether the contact has impaired the impartiality or ability of the member to vote on the matter and shall participate or abstain accordingly.
 2. A member of the approval authority shall not participate in any proceeding or action in which any of the following has a direct or substantial financial interest: the member or the member's spouse, brother, sister, child, parent, father-in-law, mother-in-law, partner, any business in which the member is then serving or has served within the previous two years, or any business with which the member is negotiating for or has an arrangement or understanding concerning prospective partnership or employment. Any actual or potential interests shall be disclosed at the meeting of the review authority where the action is being taken.
 3. Disqualification of an approval authority member due to contacts or conflict may be ordered by a majority of the members present and voting. The person who is the subject of the motion may not vote.
 4. If all members abstain or are disqualified, the administrative rule of necessity shall apply. All members present who declare their reasons for abstention or disqualification shall thereby be re-qualified to act.

16.52.060 Presentations.

- A. The approval authority may set reasonable time limits for oral presentations. The approval authority may determine not to receive cumulative repetitious, immaterial, derogatory or abusive testimony. Persons may

be required to submit written testimony in lieu of oral if the approval authority determines that a reasonable opportunity for oral presentations has been provided.

- B. No testimony shall be accepted after the close of the public hearing unless the approval authority sets a deadline for such testimony and provides an opportunity for review and rebuttal, oral or written, at the direction of the approval authority.
- C. Unless there is a continuance, if a participant so requests before the conclusion of the hearing, the record shall remain open for at least seven days after the hearing. Such an extension shall not be subject to the limitations of ORS 215.428 or 227.178.
- D. When the approval authority reopens a record to admit new evidence or testimony, any person may raise new issues which relate to the new evidence, testimony or criteria for decision-making which apply to the matter at issue.
- E. Counsel for the approval authority may be consulted solely on legal issues without reopening the public hearing. Objections alleging that counsel is discussing or testifying as to factual matters shall be heard.
- F. The presiding officer shall preserve order at all public hearings and shall decide questions of order subject on a majority vote of the approval authority. Persons who become disruptive or abusive may be ejected from the hearing.

16.52.070 Evidence.

- A. The approval authority may place any person submitting testimony under oath or affirmation. Once sworn or affirmed, all testimony subsequently given by the person during the hearing or a continuation thereof shall be deemed to be under oath.
- B. Cumulative, repetitious, immaterial or irrelevant evidence may be excluded. Evidence shall be admissible if it is of a type commonly relied upon by reasonable and prudent persons in the conduct of serious affairs. Evidence may be received subject to a later filing regarding its admissibility. Erroneous admission or evidence shall not invalidate or preclude action unless shown to have prejudiced the substantial rights of a party.
- C. Members of the approval authority may take official notice of judicially cognizable facts of general, technical or scientific facts within their specialized knowledge. Such notice shall be stated and may be rebutted.
- D. Exhibits shall be marked to provide identification upon review. Unless required for an appeal, all exhibits shall be retained by the city for a period of not less than thirty calendar days after expiration of all appeals. Exhibits may be disposed of as provided by the manager.
- E. Any member of the approval authority may visit the subject property and may use information gained to reach a decision, provided the information relied upon is disclosed and an opportunity to rebut provided.

Chapter 16.56 BURDEN OF PROOF

16.56.010 Appealing party.

Except as otherwise provided, the applicant initially, or the appealing party on appeal shall bear the burden of proof that the proposal is in compliance with the applicable standards. In addition, evidence of mistake in adoption of the plan designation or development regulations or subsequent change in the affected area are relevant considerations.

16.56.020 Prejudice.

Unless specifically identified as jurisdictional, failure to comply with a provision of this article shall invalidate an action only if it prejudices the substantial rights of the person alleging the error. Persons alleging procedural error

shall have the burden of proof as to whether the error occurred and whether the error has prejudiced the person's substantial rights.

Chapter 16.60 DECISION

16.60.010 Decision types.

After review of all evidence is submitted to the record, the approval authority may:

- A. Approve or deny all or part of the application;
- B. Approve all or part with modifications or conditions of approval as described in Section 16.60.060;
- C. Defer a decision as provided in Section 16.60.070;
- D. Dismiss without prejudice due to procedural error or remand to correct a procedural error.

16.60.020 Announcement of decision.

No decision is final for the purposes of reconsideration or appeal until it has been reduced to writing and signed by the approval authority or its designee. If a public hearing has been held, the approval authority may announce a tentative decision at the close of the public hearing, but shall in any case announce a date certain on which the decision shall be adopted or issued. If no public hearing has been held, the decision shall be announced in writing and made available to all parties as simultaneously as reasonably possible.

16.60.030 Basis for decision.

An approval or denial of a development action shall be based upon substantial evidence in the record that addresses the pertinent standards and criteria set forth in the applicable provisions of state law, the comprehensive plan, this title and other applicable laws as determined by the approval authority.

16.60.040 Findings and conclusions.

The approval authority shall provide brief and concise findings of fact, conclusions of law and an order for all development approvals, conditional approvals or denials. The findings and order shall set forth the criteria and standards considered relevant to the decision, state the facts relied upon and briefly indicate how those facts support the decision. In the case of denial, it shall be sufficient to address only those standards upon which the applicant failed to carry the burden of proof or, when appropriate, the facts in the record that support denial.

16.60.050 Re-application.

No new application for a development action that is the same or substantially similar to an action that has been denied shall be accepted for a period of six months from the date of the city's final decision of denial.

16.60.060 Conditions of approval.

- A. The approval authority may impose conditions on any city manager or planning commission development approval. Such conditions shall be designed to protect the public from potential adverse impacts of the proposed use or development or to fulfill an identified need for public services within the impact area of the proposed development. Conditions shall not restrict densities to less than that authorized by the development standards of this title.
- B. In addition to conditions imposed pursuant to subsection A of this section, a condition is valid and enforceable when the applicant has:
 - 1. Requested the condition;

2. Consented to the condition in writing or on the record; or
 3. Established or commenced the development or use (other than a valid nonconforming use) prior to approval.
- C. Assurance of Compliance with Conditions. A bond, cash deposit or other security acceptable to the approval authority may be required from the applicant in an amount sufficient to ensure compliance with a condition of approval.
- D. Time Limits on Conditions. Conditions shall be fulfilled within the time limitations set forth or a reasonable time if no time limitations are specified. Failure to fulfill a condition within said time may result in initiation of revocation of the approval, citation or such other enforcement action as the city deems appropriate.
- E. Failure to Fulfill Previous Conditions. Notwithstanding any other provision, the approval authority shall refuse to issue an approval with conditions, and deny an application, upon a determination that the applicant, or any officer, or principal of the applicant, wilfully has failed to fulfill conditions of approval imposed in any previous development action and a determination that such a decision would encourage compliance or is necessary to protect the public from future noncompliance.
- F. Modification or Removal of Conditions. Modification or removal of conditions of approval may be sought on appeal or as a new development action. A new development action shall be processed through the same procedure as was used to impose the conditions.

16.60.070 Deferral.

- A. The approval authority may continue the public hearing and defer a decision to a date certain. No new notice is required for hearings continued to a date certain. Any deferral to a date certain that exceeds ninety days without consent of the applicant shall be in the form of an order setting forth the reasons for deferral. Such a deferral may be treated as a denial by the applicant for purposes of reconsideration and appeal if the applicant files a petition for review within fourteen calendar days of written notice of the deferral.
- B. An indefinite deferral shall require new notice to all persons identified in Chapter 16.48. An indefinite deferral without the consent of the applicant shall be in the form of an order setting forth the reason for deferral and may be treated by the applicant as a denial for purposes of reconsideration and appeal if the applicant files a petition for review within fourteen calendar days of written notice of the deferral.

16.60.080 Date of final decision.

- A. Decisions of the manager or planning commission on an application shall be deemed final and effective upon expiration of the appeal period if no petition for review is filed within that time. Once final and effective, the decision cannot be appealed.
- B. Decisions of the council on an application shall be deemed final as follows:
1. If no petition for reconsideration is timely filed, the decision shall be deemed final on the date notice of the decision was provided to the parties.
 2. If a petition for reconsideration is filed and denied, the decision shall be deemed final on the date notice of the denial of reconsideration is provided to the parties.
 3. If a petition is filed and reconsideration granted, the decision shall be deemed final on the date notice of the decision on the development, as reconsidered, is provided.

*Chapter 16.64 RECONSIDERATION OF ADMINISTRATIVE, CITY MANAGER OR
PLANNING COMMISSION DECISIONS*

16.64.010 Reconsideration as extraordinary remedy.

Reconsideration of a [Type I](#) administrative, [Type II](#) city manager or [Type III](#) planning commission decision is available only as an extraordinary remedy upon a determination by the approval authority that:

- A. The party requesting reconsideration has sufficiently alleged in writing that a mistake of law or fact occurred;
- B. The alleged mistake, if found to have occurred, was a substantial factor in the decision; and
- C. Reconsideration is appropriate to avoid delay or hardship which may be caused by an appeal.

16.64.020 Motion for reconsideration.

A motion for reconsideration must be filed in writing with the manager within seven calendar days of the date the notice of decision is provided. The motion shall address the factors set forth in Section 16.64.010 of this chapter. The applicable fee adopted by the city council shall be submitted with the request.

A motion for reconsideration may be filed by the applicant, the manager or a party of record.

16.64.030 Motion for reconsideration does not stop appeal period from running.

Filing a motion for reconsideration is not a precondition to appealing the decision and does not stay the deadline for filing an appeal. To preserve the right to appeal, a party must file a petition for review as provided in Chapter 16.68. If the initial approval authority grants reconsideration, and ultimately rules in favor of the party filing for reconsideration, the party may terminate its appeal.

16.64.040 Motion for reconsideration as non-public hearing item.

Motions seeking reconsideration of a planning commission decision shall be summarily decided by the approval authority as a non-public hearing item at the first reasonably available opportunity. Motions seeking reconsideration of an administrative or city manager decision shall be summarily decided by the manager within fourteen calendar days of the receipt of the motion. Within seven calendar days, the approval authority shall issue a written notice of the decision to grant or deny the motion for reconsideration to the party requesting reconsideration. The decision as to whether to reconsider is not subject to appeal.

16.64.050 Process for reconsideration.

- A. Upon granting the motion to reconsider a [Type III](#) planning commission decision, the manager shall schedule and notify the parties of a new public hearing on the merits of the issues raised. The reconsideration of the decision shall be limited to the issues raised in the motion for reconsideration and the merits of the issues raised. Such a hearing shall be held at the next reasonably available opportunity.
- B. Upon granting the motion to reconsider a [Type I administrative or Type II](#) city manager decision, the manager shall notify the parties of the reconsideration of the application on the merits of the issues raised. The reconsideration of the decision shall be limited to the issues raised in the motion for reconsideration and the merits of the issues raised. The review shall be done at the next reasonably available opportunity.

16.64.060 Reconsideration and appeals.

If the motion for reconsideration is denied or the decision is not altered upon reconsideration, any appeal timely filed shall be processed in accordance with Chapter 16.68. If the motion is granted and the approval authority

modifies the previous decision, the parties to the initial decision shall be notified within ten calendar days of the decision and may appeal the decision as modified pursuant to Chapter 16.68.

16.64.070 Limited reconsiderations.

No decision shall be reconsidered more than once.

Chapter 16.68 APPEALS

16.68.010 Decision.

A decision of the approval authority may be appealed only if within fourteen calendar days after written notice of the decision is provided to the parties.

- A. A party files a complete petition for review with the city manager;
- B. The city manager files a complete petition for review; or
- C. The city council directs that an appeal be initiated. The grounds for directing an appeal shall be set forth by the council.

16.68.020 Appeal authority.

- A. The planning commission shall hear appeals of Type I administrative and Type II city manager decisions.
- B. The city council shall hear appeals of decisions of the planning commission.

16.68.030 Petition for review.

A petition for review shall contain the following:

- A. The name of the applicant and the city case file number;
- B. The name and signature of each petitioner and statement of the interest of each petitioner to determine party status.

Multiple parties may join in filing a single petition for review, but each petitioner shall designate a single contact representative for all contact with the city.

All city communications regarding the petition, including correspondence, shall be with this contact representative;

- C. The date that notice of the decision was sent as specified in the notice;
- D. The nature of the decision and the specific grounds for appeal. Unless otherwise directed by the appellate authority, the appeal of a Type I administrative, Type II city manager and Type III planning commission decisions shall be limited to the issue(s) raised in the petition;
- E. The appeal fee adopted by the city council;
- F. In appeals to the council, a request for a partial or full de novo hearing as provided in Section 16.68.050 if desired;
- G. Failure to file a signed and complete original petition with the city by five p.m. on the due date, with the proper fee, shall be a jurisdictional defect.

16.68.040 Transcript required—Jurisdictional defect.

- A. A transcript shall be prepared at the request of the appellant, and at the cost of the appellant for all appeals of public hearing items.

- B. In all cases where a transcript is requested by the appellant, the manager shall promptly provide the appellant with a written estimate of the cost. Failure to pay the estimated cost within fourteen calendar days of being provided the estimate shall be a jurisdictional defect. Failure to pay the total balance due in excess of the estimate within seven calendar days of billing shall be a jurisdictional defect. Any amount paid in excess of the actual cost shall be refunded by the manager within thirty calendar days of determination of the actual cost.

16.68.050 Nature of hearing.

- A. All hearings on appeal shall be conducted as public hearing in accordance with Chapters 16.52 and 16.56.
- B. Review of the final decision of **Type I** administrative and **Type II** city manager actions shall be de novo. At the public hearing before the planning commission of an appeal of an administrative or city manager action, participants shall be limited to the applicant, those who made the appeal and those persons who were entitled to be mailed a public notice of pending review of the action pursuant to Chapter 16.48, and those who made written comments as prescribed in Chapter 16.52.
- C. Except as provided in subsections D through F of this section, appeal to the city council of all final decisions of the planning commission shall be confined to the record. The record shall include:
1. Reference the name, case number and date of the decision;
 2. Contain the name and address of the requesting party;
 3. Indicate the reasons for the request without addressing the merits of the land use action; and
 4. Indicate any persons known to be opposed to the request.
- D. The request for a de novo hearing shall be decided by the city council as a non-public hearing item, except that the city council may make such provision for notice to the parties and may take such testimony as it deems necessary to fully and fairly address significant procedural or substantive issues raised. The city council shall grant the request only upon findings that:
1. A de novo hearing is necessary to fully and properly evaluate a significant issue relevant to the proposed development action;
 2. The substantial rights of the parties will not be significantly prejudiced; and
 3. The request is not necessitated by improper or unreasonable conduct of the requesting party or by a failure to present evidence that was available at the time of the previous review.
- E. Hearings before the city council on items on appeal, either on the record, partial de novo, or de novo hearings, shall have the following time limitations:
1. If the item is heard on the record, the appealing party will have fifteen minutes total to present his/her arguments. The opposition will have fifteen minutes total to present their arguments. The appealing party will also have five minutes for rebuttal.
 2. For partial de novo hearings, the appealing party will have twenty minutes total to present his/her arguments. The opposition will have twenty minutes total to present its arguments. The appealing party will also have five minutes for rebuttal.
 3. For a completely de novo hearing, the appealing party will have thirty minutes total to present his/her arguments. The opposition will have thirty minutes total to present their arguments. The appealing party will also have five minutes for rebuttal.
 4. The council chairman retains the authority to allow additional time as he/she deems appropriate and only if the party requesting the additional time has delivered to the manager, at least one week in advance of the hearing, a written statement of the reasons for the request for additional time.

- F. In conjunction with determining whether to conduct a de novo hearing, the **city** council may remand the matter to the planning commission. The decision on whether to remand shall not be appealable. Upon remand, the applicant shall be entitled to return of the appeal fee. Appeal from a decision on remand shall be taken as any other appeal.
- G. Notwithstanding the above, the **city** council may solicit or admit new evidence during a hearing on the record after considering the factors listed in subsection D of this section.

(Ord. 96-4 § 1 (part), 1996)

16.68.060 Decisions of the **city council.**

- A. Decisions of the **city** council are governed by Chapter 16.60.
- B. In addition to the decisions listed in Section 16.60.010, the **city** council may remand the matter to the prior approval authority for further proceedings as the council directs.

Chapter 16.72 RECONSIDERATION OF A CITY COUNCIL DECISION

16.72.010 Reconsideration.

The **city** council may reconsider a decision on its own motion or upon a petition for reconsideration filed by a party with the manager within seven calendar days after written notice of the decision is provided.

- A. Filing a petition for reconsideration is not necessary to exhaust administrative remedies and perfect an appeal to a body of competent jurisdiction.
- B. The motion or petition shall state the alleged errors necessitating reconsideration. A fee may be established by resolution and order.
- C. The **city** council shall summarily decide whether to reconsider at the time the motion is made or at the next reasonably available council meeting following filing of the petition. Reconsideration shall require the consent of three councilors.
- D. If reconsideration is granted, the matter shall be scheduled for a public hearing before the **city** council at the next reasonably available hearing date. Notice of the hearing shall be sent by mail no later than twenty calendar days prior to the hearing to all persons who made an appearance of record below. The hearing shall be conducted as a hearing on the record and new evidence or testimony shall be limited to grounds upon which the motion or petition for reconsideration was granted.

16.72.020 Limitations.

No final decision shall be reconsidered by the **city** council more than once. If more than one petition for reconsideration is received in the seven calendar day period provided in Section 16.72.010, the petitions shall be consolidated.

16.72.030 Remand from appellate bodies.

When an application is remanded from an appellate body, such as the land use board of appeals, to the city for further proceedings, the **city** council may decide at a regular meeting, as a non-public hearing item, whether the matter shall proceed before the council or a subordinate approval authority.

16.72.040 Date of final decision.

- A. Decisions of the manager or planning commission on an application shall be deemed final and effective upon expiration of the appeal period if no petition for review is filed within that time. Once final and effective, the decision cannot be appealed.

B. Decisions of the city council on an application shall be deemed final as follows:

1. If no petition for reconsideration is timely filed, the decision shall be deemed final on the date notice of the decision was provided to the parties.
2. If a petition for reconsideration is filed and denied, the decision shall be deemed final on the date notice of the denial of reconsideration is provided to the parties.
3. If a petition is filed and reconsideration granted, the decision shall be deemed final on the date notice of the decision on the development, as reconsidered, is provided.

Chapter 16.76 ENFORCEMENT

16.76.010 Violations.

No person shall engage in or cause to occur any development; erect, construct, reconstruct, alter, maintain, use or transfer any building or structure; or alter, use or transfer any land in violation of this title, or the comprehensive plan.

16.76.020 Fines.

Maximum fines upon conviction of the following offenses shall be as required by the city's schedule of fees and penalties as approved through resolution of the city council are as follows:

- A. Five hundred dollars per offenses for intentional violations where the responsible individual received verbal or written notice regarding city standards, which were subsequently violated;
- B. Two hundred fifty dollars per offense for all other offenses; and
- C. Each day of violation shall constitute a separate offense.

16.76.030 Court jurisdiction.

City municipal, justice, district and circuit courts shall have jurisdiction over prosecutions under this code as provided by law.

16.76.040 Other legal remedies.

The fines provided for in this chapter are in addition to and not in lieu of any other remedy provided by law, including, but not limited to denial or revocation of a development permit, injunction, mandamus, abatement or civil damages as provided by state law.

16.76.050 Building permits.

No building permit shall be issued unless it has first been determined that such building or structure, as proposed, and the land upon which it is proposed to be located, complies with all applicable provisions of this title or is exempt therefrom. In addition to any other submitted materials required by law, applications for building permits shall be accompanied by a valid development permit or a statement specifying the applicable exemption.

16.76.060 Uniform citation and complaint.

- A. A uniform citation conforming to the requirements of this section may be used for all violations of this code and the rules and regulations adopted pursuant thereto, committed in the presence of the complainant and which occur in King City.
- B. The uniform citation shall consist of at least four parts. Additional parts may be inserted for administrative use. The required parts are:

EXHIBIT A – DRAFT TITLE 16 COMMUNITY DEVELOPMENT CODE AMENDMENTS

1. Complaint;
 2. City counsel's record of violation;
 3. City's record of violation; and
 4. Summons.
- C. Each of the parts shall contain the following information or blanks in which such information shall be entered.
1. Name of the court and the court's docket or file number;
 2. Name of the person cited;
 3. Brief description of the violation of which the person is charged in such a manner as can be readily understood by a person making a reasonable effort to do so; the date, time and place at which the violation occurred; the date on which the citation was issued and the name of the complainant;
 4. The time and place where the person cited is to appear in court;
 5. The bail, if any, fixed for the violation;
 6. The designation of the method of service and certification that such service has been made; and
 7. When such service is certified mail, return receipt requested, such shall be stated on the complaint and the required certification of service may be made upon receipt of the "return receipt" and after the filing of the complaint.
- D. Each of the parts shall also contain such identifying and additional information as may be necessary or appropriate for the manager to administer the section under which the citation was issued.
- E. The complaint shall contain a form of certification by the complainant to the effect that he/she certifies, under penalties prescribed in subsection F of this section, that he/she has reasonable grounds to believe, and does believe, that the person cited committed the violation contrary to this title or the rules and regulations adopted pursuant thereto, made and provided by King City. This certification, if made by the manager or his/her authorized designee, or a duly authorized peace officer, need not be made before a magistrate or any other person. Any private person utilizing the uniform citation shall certify before a municipal court judge, clerk or deputy clerk of the municipal court of King City, and this action must be entered in the court record and contain the substance of the matters appearing on the reverse side of all uniform complaints used in the municipal court or as otherwise directed by said municipal court.
- A certificate conforming to this chapter shall be deemed equivalent to a sworn complaint.
- F. Any person who in connection with the issuance of a citation, or the filing of a complaint, for the violation of this chapter or rules or regulations adopted pursuant thereto, wilfully certifies falsely to the matters set forth therein is punishable by a fine of not more than three thousand dollars as required by the city's schedule of fees and penalties as approved through resolution of the city council.

READ CAREFULLY

You have been charged with a violation of the community development code of King City. You **MUST** do **ONE** of the following:

1. Appear in Court at the time mentioned in this summons and request a hearing. The court will then set a time for a hearing.
2. Mail to the Court this summons, together with a check or money order in the amount of the bail indicated on the other side of this summons and tell the Court you request a hearing. **THIS SUMMONS AND THE BAIL MUST REACH THE COURT BEFORE THE TIME WHEN THIS SUMMONS REQUIRES YOU TO APPEAR IN COURT.** If you don't want a hearing, but wish to explain your side, send your explanation with the

EXHIBIT A – DRAFT TITLE 16 COMMUNITY DEVELOPMENT CODE AMENDMENTS

summons and bail. The court will then consider your explanation and may forfeit your bail or part of it, on the basis of your explanation and what the officer tells the court.

3. Sign the plea of guilty below and send this summons to the Court, together with check or money order in the amount of bail indicated on the other side of this summons. THIS SUMMONS AND THE BAIL MUST REACH THE COURT BEFORE THE TIME WHEN THIS SUMMONS REQUIRES YOU TO APPEAR IN COURT.

NOTE: If you have already given bail or other security for your appearance, proceed as mentioned above, but do not send in any additional sum as bail.

APPEARANCE, PLEA OF GUILTY AND WAIVER

I, the undersigned, do hereby enter my appearance on the complaint of the violation charged on the other side of this summons. I have been informed of my right to a trial, that my signature to this plea of guilty will have the same force and effect as a judgment of court. I do hereby PLEAD GUILTY to said violation as charged, WAIVE any right to a HEARING by the Court, and agree to pay the penalty prescribed for my violation.

(Defendant's Name)

(Defendant's Name)

MAIL YOUR REMITTANCE TO:

King City Municipal Court
15300 S.W. 116th Avenue
King City, Oregon 97224

NOTICE

IF YOU FAIL TO DO ONE OF THE THREE FOREGOING PROCEDURES, OR FAIL TO APPEAR FOR TRIAL AT THE TIME SET BY THE COURT, YOU MAY BE CHARGED WITH THE ADDITIONAL AND SEPARATE VIOLATION OF FAILURE TO MAKE REQUIRED APPEARANCE.

THE COURT MAY IN ANY CASE, AFTER NOTICE, REQUIRE YOU TO APPEAR FOR A HEARING.

- G. Any error in transcribing information into the blanks provided in the citation form when determined by the court to be non-prejudicial to the defendant's defense, may be corrected at the time of trial or prior to time of trial with notice being given to defendant.
- H. Except as provided in subsection G of this section, the complaint shall be set aside by the court only upon the motion of the defendant before plea if it does not conform to the requirements of this section.

16.76.070 Prosecutions of violations.

Prosecutions shall be commenced as follows:

- A. The manager or his/her authorized designee, or a duly authorized peace officer, may issue a uniform citation for violation of this code committed in his/her presence and when committed at any location within King City, Oregon.
- B. A private person may commence an action for a code violation as provided in Section 16.76.060(E) and under the same conditions as provided in subsection A of this section. The commencement of all actions

by private persons for violation of this code committed in their presence utilizing the uniform citation form shall be with the discretion and judgment of the city manager, and conform to the procedures for certification and service as required in Sections 16.76.060 and 16.76.080, respectively.

16.76.080 Service of citation.

If a citation is commenced as described in Section 16.76.070(A) or (B), the manager, or his/her authorized designee, or a peace officer, or the city counsel, respectively, shall serve the summons portion of such citation in one of the following manners:

- A. Service may be made personally upon the defendant.
- B. If the defendant cannot be found, then service may be made to a member of his/her family over fourteen years of age who resides at that abode or to a person apparently in charge of the defendant's work place.
- C. If service is made as provided in subsection B of this section, the manager, as soon as reasonably possible, shall mail a true copy of the defendant's last known address, together with a statement of the date, time and place of service.

16.76.090 Minimum requirements for summons.

A summons for a code violation is sufficient if it contains the following:

- A. The name of the court, name of the person cited, date on which the citation was issued, name of the complainant and the time and place in which the person cited is to appear in court.
- B. A brief description or designation of the offense in such a manner that can be readily understood by a person making a reasonable effort to do so, and the date, time and place in which the violation is alleged to have occurred.
- C. The complaint shall contain a form of certificate by the complainant to the effect that he/she certifies, under the same penalties as prescribed in Section 16.76.060(F) that he/she has reasonable grounds to believe, and does believe that the person committed the violation contrary to the code. The certification, if made by the manager or his/her authorized designee, or a peace officer need not be made before a magistrate or any other person. A private party shall certify before a Washington County district court judge, or clerk or deputy clerk of the district court, and this action shall be entered into the court record.

16.76.100 Appearance by defendant.

The defendant shall either appear in court at the time indicated in the summons, or prior to such time shall deliver to the court the summons, together with check or money order in the amount of the bail set forth on the summons, together with:

- A. A request for a hearing; or
- B. A statement of matters and explanations of mitigation of the offense charged; or
- C. The executed appearance, waiver of hearing and plea of guilty appearing on the summons.

16.76.110 Effect of statement and explanation in mitigation.

If a defendant has submitted to the court a written statement as provided in Sections 16.76.100(B) or (C), it constitutes a waiver of hearing and consent to judgment by the court declaring a forfeiture of all or any part of the bail as determined by the court on the basis of such statement and any testimony or written statement of complainant or other witness which may be presented to the court.

16.76.120 Fixing hearing dates—Notice to defendants—Failure to appear—The separate offense of failing to appear in court pursuant to citation, summons, court order at the time set for trial of case.

- A. If defendant requests a hearing, or, pursuant to Section 16.76.140(B), the court directs that a hearing be held, the court shall fix a date and time for hearing and, unless notice is waived, shall, at least five days in advance of the hearing, mail to the defendant a notice of the date and time so fixed. The notice shall set forth a warning that for failure to appear for the hearing, the defendant may be charged with a separate and additional offense of failure to appear in court pursuant to a court order, or a citation or summons, or at time set for trial of the case.
- B. Notice to the defendant required pursuant to this section shall be made in the form of a court "notice to appear" and be placed in the United States mail addressed to the defendant as his/her last known address with postage prepaid thereon.
- C. Failure of the defendant to make appearance as set forth in this section will constitute a failure to appear for hearing. If the defendant fails to appear when notified by the court to appear pursuant to this section, he/she may be charged with a separate and additional offense of failing to appear in court pursuant to a court order, or a citation or summons or at time set for trial of the case.

16.76.130 Fine for failure to appear in court pursuant to a citation, summons, court order or at the time set for trial of the case.

Upon a finding by the court that defendant did not make appearance as required pursuant to Section 16.76.120, without due and good cause, the defendant shall be guilty of failure to appear. The fine for conviction of failure shall be in addition to the fine and court costs of the violation for which he/she failed to appear and shall not be less than twice the amount of bail for such violation nor more than one thousand dollars be as required by the city's schedule of fees and penalties as approved through resolution of the city council.

16.76.140 Hearing discretionary with court—Exceptions.

- A. For any code violation for which uniform citation has been issued, the court may direct that a hearing be held. Otherwise, the court may enter the appropriate judgment, impose a fine, direct that the fine be paid out of the bail deposited by the defendant and return any amount by which the bail exceeds the fine.
- B. No fine may be imposed in excess of the amount of bail deposited by defendant, unless a hearing is held.

16.76.150 Other enforcement procedure.

The use of the above citation procedures shall not be construed to prevent the filing of a complaint, in any other lawful form, alleging violation of this law.

Article III. Land Use Districts
Chapter 16.80 GENERAL PROVISIONS

16.80.010 Districts generally.

All lands, tracts and area within the corporate limits of the city area are included within one of the following described land use zoning districts. The purpose of use, classification and uses of each tract within the corporate limits of the city shall be limited to those applicable to the zoning classification district within which such tract or lands are situated.

16.80.020 Zoning classification districts.

The city is divided into the following zoning classification districts, with applicable abbreviated designation, shall be as follows:

District	Abbreviated Designation
Small Lot and Attached Residential	R-9
Attached Residential	R-12
Multi-family Residential	R-15
Multi-family residential	R-24
Single-family Residential	SF
Apartments and Townhouses	AT
Neighborhood Mixed-Use	NMU
Limited Commercial	LC
Community Facilities	CF
Recreation Open Space	ROS
<u>Kingston Terrace Town Center Mixed-Use</u>	<u>KTTC</u>
<u>Kingston Terrace Beef Bend Neighborhood</u>	<u>KTBB</u>
<u>Kingston Terrace Central Neighborhood</u>	<u>KTC</u>
<u>Kingston Terrace Rural Character Neighborhood</u>	<u>KTRC</u>

Article IV. Development Standards

Chapter 16.120 MANUFACTURED/MOBILE HOME REGULATIONS

16.120.050 Manufactured homes on individual building lots.

- A. The establishment, location, and use of manufactured homes on individual lots shall be permitted in the absence of covenants, conditions and restrictions in any zone permitting installation of a single-family dwelling unit. Manufactured homes shall be subject to requirements and limitations which apply generally to such residential uses in the district and shall meet the following requirements and limitations:
1. The manufactured home shall be multisectional and enclose a space of not less than one thousand square feet;
 2. The manufactured home shall be placed on an excavated and backfilled foundation and enclosed at the perimeter such that the finished first floor of the manufactured home is located not more than twelve inches above exterior grade.
 3. The manufactured home shall be securely anchored to the foundation system in accordance with the requirements of the state building codes agency for manufactured structures.
 4. The manufactured home shall have a pitched roof with a slope minimum of three feet in height for each twelve feet in width.
 5. The manufactured home shall have exterior siding and roofing which in material and appearance is similar to the exterior siding and roofing material commonly used on residential dwellings within the city as determined by the building official. This requirement shall not be interpreted to mean that the city is responsible for enforcing codes, covenants and restrictions of any homeowner's or other association.
 6. ~~The manufactured home shall have a garage to be constructed of materials matching those of the manufactured home. The use of an attached or detached garage may be determined by the city to be consistent with the predominant construction of immediately surrounding dwellings. The garage shall be in place on the property prior to occupancy of the manufactured home.~~
 7. The manufactured home shall have an exterior thermal envelope in substantial compliance with performance standards equivalent to the performance standards required of single-family dwellings constructed under the state building code as defined in ORS 455.010, as determined by the building official.

(Ord. 96-4 § 1 (part), 1996)

Chapter 16.124 LANDSCAPING AND BEAUTIFICATION

16.124.110 Buffering/screening requirements.

- A. A buffer consists of an area within a required interior setback adjacent to a property line containing a length equal to the length of the property line of the abutting use or uses.
- B. A buffer area may only be occupied by utilities, screening, sidewalks and bikeways, and landscaping. No building, accessways or parking areas shall be allowed in a buffer area except where an accessway has been approved by the city.
- C. A buffer/screening area shall be provided between different types of land use zones (for example, between single-family and multi-family residential, and between residential and commercial) on all portions of the lot abutting a lesser zone as follows:

EXHIBIT A – DRAFT TITLE 16 COMMUNITY DEVELOPMENT CODE AMENDMENTS

1. A ten-foot wide buffer area shall be landscaped on a commercial property abutting a residential zone; and
 2. A five-foot wide buffer area shall be landscaped on a multi-family property abutting a single-family zone; and
 3. A ten-foot wide buffer area shall be landscaped on a multi-family property abutting a commercial zone.
- D. The minimum improvements within a buffer area shall consist of the following:
1. At least one row of trees shall be planted. They shall be not less than ten feet high for deciduous trees and five feet high for evergreen trees at the time of planting. Spacing for trees shall be as follows:
 - a. Small or narrow stature trees, under twenty-five feet tall or less than sixteen feet wide at maturity shall be spaced no further than fifteen feet apart;
 - b. Medium size trees between twenty-five feet to forty feet tall and with sixteen feet to thirty-five feet wide branching at maturity shall be spaced no greater than thirty feet apart.
 - c. Large trees, over forty feet tall and with more than thirty-five feet wide branching at maturity, shall be spaced no greater than thirty feet apart.
 2. In addition, at least ten five gallon shrubs or twenty-one gallon shrubs shall be planted for each one thousand square feet of required buffer area.
 3. The remaining area shall be planted in living grass or other plant materials. A maximum of twenty-five percent of the landscaped area may be covered with mulch such as bark chips, rock, stone walkways or other similar permeable materials acceptable to the approval authority, but non-permeable materials such as "visqueen" may not be used. Areas covered by bark chips, rock or other similar materials shall not be underlain with nonpermeable materials such as plastic sheeting.
- E. Where screening is required the following standards shall apply in addition to those required for buffering (Figure 1):
1. A hedge of narrow or broadleaf evergreen shrubs shall be planted which will form a four foot tall continuous screen within two years of planning, or;
 2. An earthen berm planted with evergreen plant materials shall be provided which must form a continuous screen six feet in height within two years. The unplanted portion of the berm shall be planted in living grass or other plant materials, or;
 3. A five foot or taller fence or wall shall be constructed to provide a continuous sight obscuring screen.

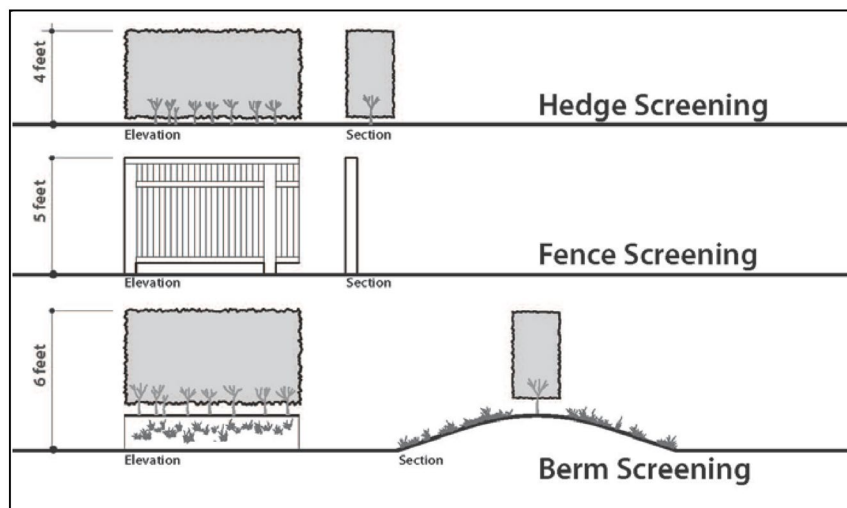


Figure 1 Landscape Screening Diagram

F. Within the Kingston Terrace District Zone, buffering/screening areas shall be provided as follows:

1. A 10-foot wide landscape buffer shall provide screening and horizontal separation between surface parking, loading, and service areas that serve dwelling, multi, mixed-use, commercial, and institutional development when located directly adjacent to dwelling, single-family attached and detached, duplexes, triplexes, fourplexes, and cottage clusters as shown in Table 16.124.F-1.

Table 16.124.F-1. Minimum Landscape Screening Requirement in Kingston Terrace District Zone

<u>Land Use Types</u>	<u>Residential Use (except Dwelling, multi and Mixed-Use)</u>
<u>Dwelling, multi and Mixed-Use</u>	<u>10 feet</u>
<u>Commercial</u>	<u>10 feet</u>
<u>Public and Institutional</u>	<u>10 feet</u>

2. Improvements in the landscape buffer shall comply with the standards of Sections 16.124.110.
3. Where screening is required, it should complement the overall visual character of the development.

G.F. Buffering and screening provisions shall be superseded by the vision clearance requirements as set forth in Section 16.144.030(C).

H.G. When the use to be screened is downhill from the adjoining zone or use, the prescribed heights of required fences, walls, or landscape screening shall be measured from the actual grade of the adjoining property.

I.H. Fences and Walls.

- Fences and walls shall be constructed of any materials commonly used in the construction of fences and walls such as wood or brick, or otherwise acceptable by the approval authority;
- When potential visual or noise impacts from normal activities on the site is anticipated, such as buildings, parking lots and loading areas, the approval authority may require fences and walls to be constructed of materials and in a manner and height that will attenuate noise impacts on adjoining properties;
- Such fence or wall construction shall be in compliance with Section 16.144.030 of this code; and
- Chain link fences with slats shall not qualify for screening along a property perimeter.

J.I. Hedges.

- Except for development in the LC Zone, an evergreen hedge or other dense evergreen landscaping may satisfy a requirement for a sight obscuring fence where required subject to the height requirement in Section 16.124.130.
- Such hedge or other dense landscaping shall be properly maintained and shall be replaced with another hedge, other dense evergreen landscaping, or a fence or wall when it ceases to serve the purpose of obscuring view; and
- No hedge shall be grown or maintained at a height greater than that permitted by these regulations for a fence or wall in a vision clearance area as set forth in Section 16.144.030(C).

16.124.130 Height restrictions.

- The prescribed heights of required fences, walls or landscaping shall be measured from the actual adjoining level of finished grade, not above a retaining wall.
- An earthen berm and fence or wall combination shall not exceed the 6 foot height limitation for screening, except when the approval authority allows construction to a greater height in order to mitigate against adverse

impacts such as incompatible land uses, noise, glaring light, and traffic; however, development shall comply with applicable neighborhood circulation standards

16.124.140 Parking and loading areas.

- A. Screening of parking and loading areas in the limited commercial zone. The specifications for this screening are as follows:
1. Landscaped parking areas shall include special design features to visually screen parking lot areas. These design features may include the use of landscaped berms, decorative walls and raised planters;
 2. Landscape planters may be used to define or screen the appearance of off-street parking areas from the public right-of-way;
 3. Materials to be installed should achieve a balance between low lying and vertical shrubbery and trees;
 4. Trees shall be planted in landscaped islands in all parking areas at a ratio of one tree for ~~each seven~~ every 10 contiguous parking spaces and at the end of each parking row in order to provide a canopy effect;
 5. ~~The minimum dimension of the landscape islands shall be twenty-five feet and have minimum width of four feet measured from back to curb, and shall be designed so as to prevent vehicular damage to trees. Landscaping shall be protected from vehicular damage by some form of wheel guard or curb. Landscape islands shall have a minimum area of 70 square feet, shall be curbed, and have a minimum width of 6 feet, measured from the interior curb face;~~
 6. Landscape islands shall be planted with a tree having a minimum mature height of 20 feet. If a pole-mounted light is proposed to be installed within a landscaped planter island, and the applicant demonstrates that there is a physical conflict for siting the tree and the pole-mounted light together, the decision-making authority may approve elimination of the pole-mounted light to accommodate placement of the tree; and
 7. Curbs separating landscaped areas from parking areas may allow stormwater runoff to pass through them.
- B. Criteria for trees and parking areas. Deciduous shade trees shall meet the following criteria:
1. Reach a mature height of thirty feet or more;
 2. Cast moderate to dense shade in the summer;
 3. Be long lived, i.e., over sixty years;
 4. Do well in an urban environment by being:
 - a. Pollution tolerant; and
 - b. Tolerant of direct and reflected heat.
 5. Require little maintenance:
 - a. Mechanically strong;
 - b. Insect and disease resistant; and
 - c. Require little pruning.
 6. Be resistant to drought conditions;
 7. Be barren of fruit production.

Chapter 16.144 VISION CLEARANCE

16.144.010 Purpose.

The purpose of this chapter is to provide adequate site clearance at intersections of streets and driveways to allow for safe operation of vehicles and to ensure the safety of pedestrians.

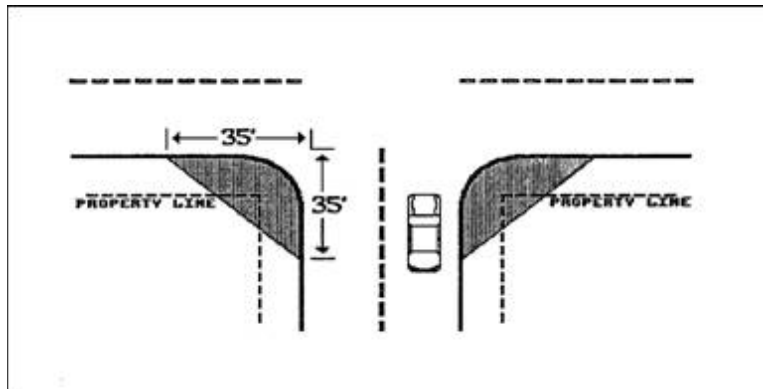
16.144.020 Applicability of provisions.

The provisions of this chapter shall apply to vegetation and all development including the construction of new structures, remodeling of existing structures, and the construction or alteration of fences and signs.

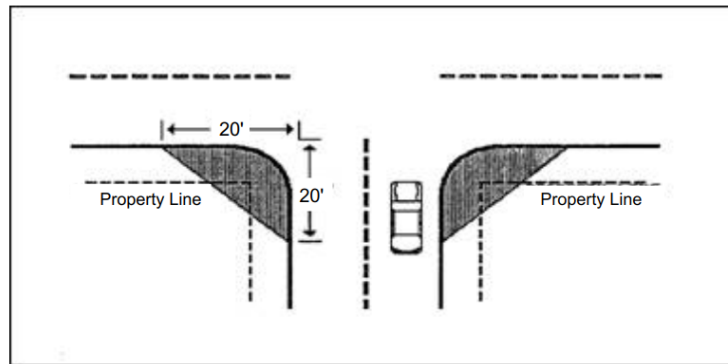
16.144.030 Standards.

All structures and landscaping shall satisfy the applicable standards of this section.

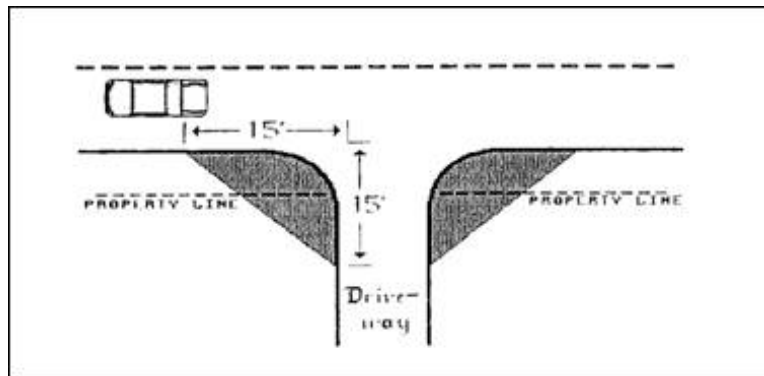
- A. A visual clearance area shall be maintained on the corners of all property adjacent to the intersection of two streets or a driveway providing access to a public or private street. The visual clearance area shall be that triangular area formed using the curb line or pavement edge at an intersection and the prescribed dimensions in subsections (1), (2), and (23) of this section.
 1. With the exception of driveways serving no more than two residences, all intersections on Pacific Highway, Beef Bend Road, Roy Rogers Road, Elsner Road, 131st Avenue (north of Fischer Road), and Fischer Road shall have a visual clearance area of not less than thirty-five feet on each side of the intersection, unless an alternate standard is required by ODOT for Pacific Highway or Washington County for Beef Bend Road, Roy Rogers Road, Elsner Road, and Fischer Road (east of 131st).



2. With the exception of driveways serving no more than two residences, all intersections within the Kingston Terrace District shall have a visual clearance area of not less than twenty feet on each side of the intersection.



2. The visual clearance for all other intersections which do not involve the streets described in subsection (A)(1) or (2) of this section, shall not be less than fifteen feet on each side of the intersection. A driveway serving no more than two residences shall also be subject to this standard.



- B. A clear area shall contain no vehicle, hedge, planting, fence, wall, sign or any similar permanent obstruction which is between three feet and eight feet in height, measured from the top of the curb, or where no curb exists, from the street center line grade. Trees may be located in this area, provided all branches below eight feet are remove.
- C. Where horizontal or vertical curve conditions contribute to the obstruction of clear vision areas at an intersection or high traffic speeds are anticipated, hedges, plantings, fences, walls, buildings and other temporary or permanent obstructions shall be further reduced in height or eliminated to comply with the intent of the required clear vision area.

Chapter 16.148 SIGNS

16.148.050 Residential use signs.

Residential uses shall be permitted the following signs: identification or monument sign. Subdivision, condominium developments, multi-family developments shall be allowed one, indirectly illuminated, freestanding monument sign or wall sign. ~~The sign shall not exceed eighteen square feet in area and five feet in height. Each sign shall have a maximum height of 6 feet and area of 32 square feet for a single-faced sign or 64 square feet for a double-faced sign.~~ For developments with more than one vehicle entrance, an additional sign may be permitted at such additional entrance. Phased subdivisions shall be considered a single subdivision for determining permitted signs under this section.

16.148.060 Signs not requiring permits.

The following signs do not require a permit but are subject to the provisions of this chapter:

- D. Real Estate Signs—Residential Real Estate Signs—Single-Family, Duplex, and Multi-family Units. The owner or authorized representative of a single-family, duplex or multi-family unit may erect the following real estate signs:
 - 1. ~~On-premises. One double faced, freestanding sign on the property front is permitted. It shall not exceed four square feet in area. The sign shall be removed from the property within thirty days of sale or immediately after transfer of possession, whichever occurs first.~~
 - 1. Lawn sign in accordance with 16.148.080 D.
 - 2. Reserved.
 - 3. Residential Subdivisions and Undeveloped Land. Signs advertising more than three contiguous lots or undeveloped land in a residential planning district shall be limited to one double-faced sign not to exceed sixteen square feet per face or two sixteen square foot single-faced signs. Such signs shall be located on the premises being marketed, not less than five hundred feet apart and shall not exceed eight feet in height. Signs shall be removed within thirty days of sale of undeveloped land, or upon transfer of possession, whichever occurs first.
 - 4. Commercial and Undeveloped Lands. Signs advertising in a commercial district and undeveloped land shall be limited to one single-faced or double-faced sign for each street for two years or when ninety percent of the number of lots are sold, whichever occurs first.

16.148.080 Exempt signs.

The following signs are exempt from the provisions of this chapter:

- A. Signs which are authorized and installed by public utility, telephone or cable television companies which serve as an aid to public safety, or which show the location of underground facilities;
- B. Public signs;
- C. Signs not visible or not intended to be read from the public right-of-way or from common areas open to the public;

~~D. — Garage sale signs.~~

D. Lawn signs that meet the standards of this subsection are allowed in all zones and are not counted in the total square footage of permanent signage allowed on the site.

1. Dimensions. Lawn signs may be up to 4 square feet in area with a maximum height of 4 feet.
2. Placement. Lawn signs must be entirely outside of the right-of-way.
3. Sign features. Illumination, electric signs, and changing image sign features are prohibited.
4. Duration. Lawn signs shall be placed on a site for a maximum period of 60 days.

Article V. Development Review
Chapter 16.168 TEMPORARY USES

16.168.010 Purpose.

- A. The purpose of this chapter is to establish standards for the approval of temporary uses which are:
 - 1. Seasonal or directed toward a specific event; and
 - 2. Consistent with the uses and activities that may be permitted in the relevant zoning district.
- B. The temporary uses permitted under the provisions of this chapter are intended to be truly temporary in nature and have no adverse impacts on the surrounding area and land uses. Temporary uses have no inherent rights within the zone in which they locate.
- C. This chapter is not intended to provide a way to circumvent the strict application of the provisions of this title.

16.168.020 Applicability of provisions.

- A. Business tax registration, as provided in Chapter 5.04, shall be required for temporary uses.
- B. Residential, Community Facilities (CF), ~~and~~ Recreational Golf Course (RGC), and Kingston Terrace District zones—Types of Uses Permitted.
 - 1. Use associated with the sale of fresh fruits, produce and flowers grown on the property.
 - 2. Use associated with construction of roads, utilities or development, including storage of equipment and staging areas for a maximum of three consecutive months.
 - 3. Temporary sales office or model home located within the boundaries of the subdivision or tract of land in which parcels, homes or dwelling units are being sold or rented.
- C. Limited Commercial (LC) Zone—Types of Uses Permitted.
 - 1. Use associated with the sale of fresh fruits, produce, and flowers grown for a maximum of three consecutive months.
 - 2. Use associated with construction of roads, utilities or development, including storage of equipment and staging areas.
 - 3. Temporary building for use only associated with the primary use on the property.
 - 4. Seasonal outdoor sales, such as fireworks and Christmas trees for a maximum of one month.
 - 5. Fairs and carnivals for a maximum of two consecutive weeks.
 - 6. Activities and structures needed as the result of a natural disaster or other health and safety emergency for the duration of the emergency.
- D. Garage Sales. The provisions of this chapter must not apply to garage sales and other sales of items from the site that occur for no more than three consecutive days on two different occasions during a calendar year.

Chapter 16.192 ANNEXATION

16.192.010 Purpose.

The purpose of this chapter is to establish procedures and criteria for annexations under the provisions of Metro Code Chapter 3.09 and Oregon Revised Statutes including, but not limited to, ORS Chapter 222.

16.192.020 Applicability of provisions.

The provisions of this chapter apply to all proposals to bring property under Washington County jurisdiction into the city.

16.192.030 Administration.

- A. A quasi-judicial annexation application shall be processed through the Type III procedure as provided in Section 16.40.030.
- B. A legislative annexation application shall be processed through the Type IV procedure as provided in Section 16.40.040.

16.192.040 Submittal requirements.

- A. In addition to the application form and information required in Section 16.44.030, the applicant shall submit the following:
 - 1. A site map and necessary data or narrative which explains how the annexation conforms to the approval criteria in Section 16.192.050, and:
 - 2. Site information and narrative shall include the following:
 - a. A description of the existing site conditions;
 - b. The comprehensive plan and zoning designations sought; and
 - c. A copy of all existing restrictions or covenants.
- B. One of the following:
 - 1. A Division of State Lands approved Local Wetland Inventory (LWI) that covers the subject property;
 - 2. Proof that the Divisions of State Lands is currently reviewing a proposed LWI that covers the subject property (Draft LWI) together with the materials submitted to the Division of State Lands in connection with such inventory; or
 - 3. Proof that the subject property does not include any wetlands as defined by OAR 141-086-0200(17) and which would be subject to the local wetland inventory requirements of OAR 660-023-0100.
- C. The manager may require information in addition to that required by this chapter when it is found that certain information is necessary to properly evaluate the application.

- D. The manager may waive a specific requirement for information when it is found that such information is not necessary to properly evaluate the application.

16.192.050 Approval criteria.

- A. The city council shall approve or approve with modification an annexation application when it complies with the relevant provisions of:
1. Metro Code 3.09;
 2. The Oregon Revised Statutes;
 3. The comprehensive plan;
 4. Kingston Terrace Master Plan;
 5. The requirements of this title;
 6. Applicable intergovernmental agreements; and
 7. Section 16.192.060, for properties subject to Local Wetlands Inventory approval.
- A. The comprehensive plan and zoning designation placed on the property shall conform with the city or Washington County comprehensive plan designation. Where the county comprehensive plan and zoning designation govern, the city shall assign a zoning designation that most closely resembles the county zoning designation.
- B. Assignment of comprehensive plan and zoning designations. Assignment of the designation shall occur automatically and concurrently with annexation approval. In the case of land that carries county designations, the city will convert the County's Comprehensive Plan Map and Zoning Designations to the appropriate city designation. Land within the Kingston Terrace Master Plan will receive a designation of Kingston Terrace District.

16.192.060 Kingston Terrace District Local Wetland Inventory Provisions.

- A. Purpose. The purpose of Section 16.192.060 is to establish procedures and criteria for the development of Local Wetland Inventories for properties within the Kingston Terrace District consistent with OAR 660-023-0100 and for the implementation of a Goal 5 process to (i) adopt a program to protect significant wetlands (ESEE Analysis) or, (ii) implement a safe harbor ordinance to protect locally significant wetlands.
- B. Application Procedures. If required under Section 16.192.040(B), applicants shall provide DSL and the city with Local Wetland Inventory products required by OAR 141-086-0210 through -0225 for review. All such materials shall be deemed part of the annexation application record and shall be subject to public review and comment.
- C. Notice Requirements. Upon receipt of all required application materials, including those set forth above in Section 16.192.060(B), the City shall provide public notice of the proposed annexation and Local Wetlands Inventory consistent with Section 8.02 of the King City Charter of 2006 and Chapter 16.48. The notice shall state that comments on the proposed Local Wetlands Inventory must be

received by the City no later than fourteen (14) days after the date of mailing of the public notice. The City shall forward any comments received regarding the Local Wetlands Inventory to the Oregon Department of State Lands consistent with the requirements of OAR 141-086-0228.

- D. Adoption of Local Wetland Inventory. The City shall not schedule a meeting for adoption of the ordinance annexing the subject property or the adoption of the Local Wetland Inventory for the subject property until the applicant has provided, or the City has received, a letter of approval covering the subject property from the Department of State Lands pursuant to OAR 141-086-0228(5).
- E. Public Hearing Notice. Upon receipt of a letter of approval from the Department of State Lands pursuant to OAR 141-086-0228(5), the City shall schedule a hearing for the first reading of an ordinance annexing the subject property and an ordinance adopting the Local Wetland Inventory for the subject property. Notice of the public hearings shall be as set forth in Section 8.02 of the King City Charter of 2006 and Chapter 16.48.
- F. Local Wetland Inventory. The ordinance adopting the Local Wetland Inventory for the subject property shall include a map of the subject property identifying the location of the inventoried wetlands, including any wetlands designated as “locally significant wetlands” pursuant to OAR 141-086-0350 and consistent with the letter of approval from the Department of State Lands pursuant to OAR 141-086-0228(5). The map shall be included in Section 16.114.080 and shall thereafter constitute a part of the City’s Local Wetlands Inventory consistent with OAR 660-023-0100.
 - 1. Significant Wetlands. Properties annexed containing “locally significant wetlands” pursuant to OAR 141-086-0350 shall be subject to the Kingston Terrace Wetland Safe Harbor provisions in Section 16.114.080. In lieu of the Kingston Terrace Wetland Safe Harbor provisions in Section 16.114.080, property owners may elect to complete the Goal 5 process pursuant to the economic, social, environmental and energy (ESEE) process set forth in OAR 660-023-0040 and 660-023-0050.

EXHIBIT B

City of King City – Municipal Code Amendments (9/13/2023)

Chapter 2.16 – PLANNING COMMISSION

Chapter 2.34 – CITY COUNCIL RULES OF ORDER

Chapter 8.04 – NUISANCES

Chapter 8.08 – OPEN BURNING

Chapter 8.24 – OVERNIGHT CAMPING

Chapter 3.02 SYSTEMS DEVELOPMENT CHARGES

Exhibit B

MUNICIPAL CODE AMENDMENTS

Chapter 2.16 – PLANNING COMMISSION

2.16.040 - Quorum.

~~Four~~ A simple majority of sitting members of the commission shall constitute a quorum for the conduct of business by the commission. A vote of the majority of the quorum shall be necessary for action by the commission on any matter before it.

2.16.060 Conflict of interest

A member of the planning commission shall not participate in any commission proceeding or action in which any of the following has a direct or substantial real estate or financial interest: The member or the spouse, brother, sister, child, parent, father-in-law, mother-in-law of the member, any business in which the member is then serving or has served within the previous two years, or any business in which the member is negotiating for or has an arrangement or understanding concerning prospective partnership or employment. Any actual or potential interest shall be disclosed at the meeting of the commission where the action is being taken.

2.16.100 Appeal to city council

~~An action or ruling~~ A decision of the commission authorized by this chapter under section 2.16.070(A) may be appealed to the city council within fifteen days after the commission has rendered its decision by filing written notice of appeal with the city manager. At the time the notice of appeal is filed, the appellant shall pay an appeal fee in the amount provided in a schedule of rates established by resolution of the city council. If no appeal is taken within the fifteen-day period, the decision of the commission shall be final. If an appeal is filed, the city council shall receive a report and recommendation from the commission and shall hold a public hearing on the appeal. Notice of the time, place and purpose of the public hearing shall be given by:

A. Mailing a copy of the notice to the applicant and all other individuals (who appeared in person or wrote letters to the commission), at the addresses such individuals provided to the commission at the commission's hearing; and

B. Posting a copy of the notice of public hearing shall occur not less than ten days prior to the date of the hearing.

Chapter 2.34 – CITY COUNCIL RULES OF ORDER

2.34.030 Meeting times

In accordance with Article 7, Section 7.01 of the King City Charter, the city council shall hold a regular meeting at least once each month. This meeting will typically take place on the third Wednesday of each month ~~with the meeting time for the regular meetings to be set by resolution with the date, time and place to be decided by the Mayor and coordinated by the City Manager.~~ Notice of the meeting's date, time, and place shall be published via public notice no less than 24 hours in advance. All other council meetings will be either work sessions or special meetings and typically scheduled on the first Wednesday of each month. Work sessions or special meetings will be held at ~~seven p.m.~~ Ten (10:00) a.m. unless noticed otherwise.

Chapter 8.04 – NUISANCES

8.04.130 Noise.

- A. Prohibited Noise. No person, firm, corporation or association shall cause or permit a noise to exceed the following intensity when measured at the nearest noise receiving structure (i.e., living, sleeping or eating area of a residence, office or similar areas), and sound deadening buffers shall be installed by the contractor or homeowner, if necessary, to meet the required permitted noise levels.

Maximum Permitted Sound Level Decibels

Hours:	7 a.m. to 7 p.m.	7 p.m. to 7 a.m.
	55 <u>75</u> dBA	45 <u>60</u> dBA

For purposes of enforcing this provision, sound measurements shall be made with a sound level meter meeting the requirements of a Type I or Type II meter as specified in ANSI Standard 1.4-1971. The sound level meter shall contain at least an A-weighted scale and contain both fast and slow meter response capability.

- B. Exemptions. The following noise sources or devices are exempt from the seven a.m. to seven p.m. decibel level provisions (only) of subsection A of this section:
1. Noise-making devices which are maintained and utilized solely to serve as warning devices; and
 2. Noise caused by or directly related to the construction or repair of structures for which a building permit is required; and
 3. Equipment or devices used for yard preparation or maintenance including but not limited to, lawn mowers, hedge clippers, trimmers and other related equipment; and
- C. Exemptions. The following noise sources or devices are exempt from the seven p.m. to seven a.m. decibel level provisions (only) of subsection A of this section:
1. Noise-making devices which are maintained and utilized solely to serve as warning devices; and

-
2. Noise caused by or directly related to emergency repairs.
- D. Exemptions. The following noise sources or devices are exempt from the decibel level provisions (only) of subsection A of this section between the hours of six a.m. to seven p.m., during daylight savings time only:
1. Equipment and devices used for maintenance and groundskeeping requirements on the city golf course.
 2. Notwithstanding the exemptions granted in this section, no noise created by the activities subject to an exemption shall exceed eighty-five dBA for more than five minutes in any calendar day.

Chapter 8.08 – OPEN BURNING

8.08.010 Definition

"Open burning" means any burning conducted in such a manner that combustion air is not effectively controlled. ~~and that combustion products are not vented through a stack or chimney, including, but not limited to, burning conducted in open outdoor fires, common burn barrels and backyard incinerators.~~ These include Recreational Fires as defined by TVFR (Oregon Fire Code 307.4.2) and Bonfires as defined by TVFR (Oregon Fire Code section 307.4.1).

8.08.020 Permit required

- A. No one, within the boundaries of the city, without the express written permission of the city and the fire chief of the Tualatin Rural Fire Protection District or his authorized officer, shall cause or permit to be initiated or maintained on his own property, or cause to be initiated or maintained on the property of another, any open burning as is defined in Section 8.08.010 of this chapter.
- B. Exempt from permitting: The use of small fire pits, fire tables, outdoor fireplaces, barbecue pits, campfires, and similar activities provided that they are burning clean dry firewood, propane, natural gas, charcoal or similar fuels AND the fire is confined by a noncombustible barrier (such as a metal fire ring, masonry or stone enclosure, a hole in bare earth, etc.).

Chapter 8.24 – OVERNIGHT CAMPING

8.24.010 – Definitions

For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"Camp" or camping" means to set up, use, maintain or remain in or at a campsite.

"Campsite" means any place where one or more persons have established temporary living accommodations by use of camp facilities and/or camp paraphernalia.

"Camp facilities" include, but are not limited to, tents, huts, temporary shelters, lean-tos, shacks, or any other structures, vehicles or parts thereof.

“Camp paraphernalia” includes, but is not limited to, tarpaulins, cots, beds, sleeping bags, blankets, mattresses, hammocks, or non-city designated cooking facilities and similar equipment.

“City property” means all real property owned by the city, other than public rights-of-way and utility easements, as those are defined herein, and all property held in a proprietary capacity by the city, which are not subject to right-of-way franchising as provided in this chapter; and

“Public rights-of-way” include, but are not limited to, streets, roads, highways, bridges, alleys, sidewalks, trails, paths, public easements and all other public ways or areas, including the subsurface under and air space over these areas. This definition applies only to the extent of the city’s right, title, interest or authority to grant a franchise to occupy and use such areas for infrastructure and utilities. Public rights-of-way shall also include utility easements, as defined below.

“Utility easement” means any easement granted to or owned by the city and acquired, established, dedicated or devoted for public utility purposes.

“Store” means to put aside or accumulate for use when needed, to put for safekeeping, or to place or leave in a location.

“Tualatin Greenway Trail” means a hard-surfaced pathway that runs from 99W west to Roy Rogers Road.

“Parks, Recreation, and Natural spaces” means areas identified as natural or conservation areas or designated as Parks for Recreational purposes.

8.24.020 – Overnight Camping Location and Hours

- A. Overnight Camping is prohibited in King City except in the time, place and manner designated by this ordinance.
- B. Overnight Camping is permitted along the east side of City Hall, east of the fence on City Property adjacent to Highway 99W.
- C. Overnight Camping is permitted between the hours of 9pm and 7am.
- D. Unless otherwise specifically authorized by the City Code or by declaration of the Mayor and/or City Manager in emergency circumstances, it is an infraction for any person to camp in or upon any other public property including:
 - 1. Within an area zoned for institutional and public use
 - 2. Within an area zoned as a Floodplain Overlay
 - 3. Within any residential zone, within 50 feet of any residential zone and within 50 feet of a residential structure regardless of zoning;
 - 4. In City Parks, Recreation, and Natural Spaces;
 - 5. On or along the Tualatin Greenway Trail;
 - 6. Within 500 LF of a School Zone;
 - 7. In a manner reducing the clear, continuous sidewalk width to less than four feet; and
 - 8. Between the hours of 7:00 a.m. to 9:00 p.m.

8.24.030 – Storage of Personal Property

Except as expressly authorized by the King City Municipal Code, it shall be unlawful for any individual to store personal property, including camp facilities and camp paraphernalia, on city property or in the public rights-of-way during the hours of 7:00 a.m. to 9:00 p.m.

8.24.040 – Violation - Penalty

Any person camping in violation of this section shall, upon conviction thereof, be subject to a civil fine of not more than \$100 for each offense. The fine amount should reasonably relate to the damage the infraction caused to public use, enjoyment, or property.

Chapter 3.02 SYSTEMS DEVELOPMENT CHARGES

3.02.010 Purpose.

The purpose of the system development charge is to impose an equitable share of the public costs of capital improvements for water, sewers and wastewater drainage, streets, flood control, and parks upon those developments and redevelopments that create the need for or increase the demands on the transportation, parks, recreation center, water, sewer systems.

This chapter is intended to provide authorization for system development charges for capital improvements pursuant to ORS 223.297—223.314 for the purpose of creating a source of funds to pay for the installation, construction, and extension of capital improvements. These charges shall be collected at the time of the development of properties ~~which that~~ increase the use of capital improvements and generate a need for those facilities. Nothing in this chapter is intended to limit the city's authority as may otherwise be provided by state law.

(Ord. O-04-2 § 1 (part), 2004: Ord. O-93-14 § 1 (part), 1993)

3.02.020 Scope.

The system development charges as imposed by this chapter are separate from and in addition to any applicable tax, assessment, charge, fee in lieu of assessment, exaction, dedication, or fee otherwise provided by law or imposed as a condition of development.

(Ord. O-93-14 § 1 (part), 1993)

3.02.030 Definitions.

A. "Capital improvements" means facilities or assets used for:

1. ~~1=~~Water supply, treatment, and distribution;
2. ~~2=~~Sewage and wastewater collection, transmission, treatment, and disposal;
3. ~~3=~~Drainage and flood control;
4. ~~4=~~Transportation, including, but not limited to, streets, sidewalks, bicycle lanes, multi-use paths, street lights, traffic signs and signals, pavement markings, street trees, swales, public transportation, vehicle parking, and bridges; or ~~or~~
5. ~~5=~~Parks and recreation, including, but not limited to, community parks, public open space and trail systems, recreational buildings, courts, fields, and other like facilities.

B. "Capital Improvement" does not include the costs of the operation or routine maintenance of capital improvements.

C. "Development" means all improvements on a site, including buildings, other structures, parking and loading areas, landscaping, paved or graveled areas, and areas devoted to exterior display, storage, or activities, any building permit resulting in increased usage of capital improvements, and any new connection or increased size connection for a capital improvement. Development includes the redevelopment of property. Development also includes improved open areas such as plazas and walkways but does not include natural geologic forms or unimproved lands.

~~A. "Development" means conducting a building or mining operation, making a physical change in the use or appearance of a structure or land, or creating or terminating a right of access.~~

D. ~~"Improvement fee" means a fee for costs associated with capital improvements to be constructed after the date the fee is adopted pursuant to Section 3.02.040 of this chapter.~~

"Reimbursement fee" means a fee for costs associated with capital improvements already constructed, or under construction when the fee is established, for which the city council determines that capacity exists. Pursuant to Section 3.02.040 of this chapter for which, the city determines that capacity exists.

E. "Land area" means 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.

F. "Owner" means the owner(s) of record title or the purchaser(s) under a recorded sales agreement, and other persons having an interest of record in the described real property.

G. "Parcel of land" means a lot, parcel, ~~block~~ block, or other tract of land that is occupied or may be occupied by a structure or structures or other use, and includes the yards and other open spaces required under the zoning, subdivision, or other development chapters.

H. "Permittee" means the person to whom a building permit, development permit, permit to connect to the sewer or water system or right-of-way access permit is issued.

I. "Qualified public improvement" means a capital improvement that is:

1. ~~1~~ Required as a condition of development approval;
2. ~~2~~ Identified in the plan adopted pursuant to Section 3.02.070 of this chapter; and either,
3. ~~3~~ Not located on or contiguous to a parcel of land that is the subject of the development approval; or
4. ~~4~~ 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.

~~"Reimbursement fee" means a fee for costs associated with capital improvements constructed or under construction on the date the fee is adopted pursuant to Section 3.02.040 of this chapter for which the city determines that capacity exists.~~

J. "System development charge" means a reimbursement fee, an improvement fee or a combination thereof assessed or collected at the time of increased usage of a capital improvement or issuance of a development permit, building permit or connection to the capital improvement. "System development charge" includes that portion of a sewer or water system connection charge that is greater than the amount necessary to reimburse the governmental unit for its average cost of inspecting and installing connections with water and sewer facilities. "System development charge" does not include any fees 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 condition of development approval.

(Ord. O-04-2 § 1 (part), 2004: Ord. O-93-14 § 1 (part), 1993)

3.02.040 System development charge imposed—Method for establishment created.

A. A. System development charges shall be established and may be revised by resolution of the city council. The resolution shall set the amount of the charge through a methodology developed pursuant to Section

3.02.050 herein, the type of permit to which the charge applies, and, if the charge applies to a geographic area smaller than the entire city, the geographic area subject to the charge. Changes in the system development charges shall also be adopted by resolution, excepting those changes resulting solely from inflationary cost impacts. Inflationary cost impacts shall be measured and calculated each July 1st by the City Manager and charged accordingly. The City Manager shall use Engineering News-Record Construction Cost Index (CCI) Seattle Region Average as the basis for adjusting Parks and Water SDCs. The City Manager shall use the Washington County TDT index to adjust the Transportation System Development annual indexing.

- B. Unless otherwise exempted by the provisions of this chapter, or by other local or state law, a system development charge is hereby imposed upon all development within the city, upon issuance of permit as stated in Section 3.02.090 herein or upon the act of making a connection to the city water or sewer system within the city, whichever occurs first, and upon all development outside the boundary of the city that connects to or otherwise uses the sewer facilities, storm sewers, or water facilities of the city.

~~Unless otherwise exempted by the provisions of this chapter or other local or state law, a systems development charge is imposed upon all development within the city, upon the act of making a connection to the city water or sewer system within the city, and upon all development outside the boundary of the city that connects to or otherwise uses the sewer or water facilities of the city.~~

- ~~B. System development charges shall be established and may be revised by resolution of the city council. The city council may adopt a change in the adopted fees as provided by state law. The resolution shall set the amount of the charge, the type of permit to which the charge applies, the methodology used to set the amount of the charge and, if the charge applies to a geographic area smaller than the entire city, the geographic area subject to the charge.~~

(Ord. O-04-2 § 1 (part), 2004: Ord. O-93-14 § 1 (part), 1993)

3.02.050 Methodology.

- A. ~~A. The methodology used to establish the reimbursement fee shall consider the cost of the then-existing facilities, prior contributions by then-existing system users, the value of unused capacity, rate-making principles employed to finance publicly owned capital improvements, gifts or grants from federal or state government or private persons, and other relevant factors identified by the council. The methodology shall promote the objective that future systems users shall contribute no more than an equitable share of the cost of then-existing facilities. The methodology used to establish or modify a reimbursement fee shall promote the objective of future system users contributing no more than an equitable share to the cost of existing facilities and be available for public inspection. The methodology used to establish or modify a reimbursement fee shall, where applicable, be based on:~~
1. Ratemaking principles employed to finance publicly owned capital improvements;
 2. Prior contributions by existing users;
 3. Gifts or grants from federal or state government or private persons;
 4. The value of unused capacity available to future system users or the cost of the existing facilities; and
 5. Other relevant factors identified by the city council.
- B. The methodology used to establish or modify an improvement fee shall, where applicable, demonstrate consideration of the estimated cost of projected capital improvements identified in an improvement plan (see Section 3.02.080) that are needed to increase the capacity of the systems to which the fee is related. The methodology shall be calculated to obtain the cost of capital improvements for the projected need for available system capacity for future system users. The methodology used to establish the improvement fee shall consider the cost of projected capital improvements needed to increase the capacity of the systems to which the fee is related and other relevant factors identified by the council.
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- C. The methodology used to establish the improvement fee or the reimbursement fee, or both, shall be adopted by resolution pursuant to ORS 223.301. ~~¶~~

(Ord. O-04-2 § 1 (part), 2004; Ord. O-93-14 § 1 (part), 1993)

3.02.060 Authorized expenditures.

- A. Reimbursement fees shall be applied only to capital improvements associated with the systems for which the fees are assessed, including expenditures relating to repayment of indebtedness.
- B. Improvement fees shall be spent only on capacity increasing capital improvements, including the following:
- ~~1. Improvement fees shall be spent only on capacity increasing capital improvements, including~~
Expenditures relating to repayment of debt for such improvements.
 2. An increase in system capacity occurs if a capital improvement increases the level of performance or service provided by existing facilities or provides new facilities. The portion of the improvements funded by improvement fees must be related to demands created by current or projected development.
 - ~~3. 2. ———~~A capital improvement being funded wholly or in part from revenues derived from the improvement fee shall be included in the systems development charge funding project plan adopted by the city pursuant to Section 3.02.070 of this chapter.
- C. Notwithstanding subsections A and B of this Section, system development charge revenues may be expended on the direct costs of complying with the provisions of this chapter, including the costs of developing system development charge ~~methodologies~~ methodologies, and providing an annual accounting of system development charge funds.

(Ord. O-93-14 § 1 (part), 1993)

3.02.070 Expenditure restrictions.

- A. A. System development charges may not be expended for costs associated with the construction of administrative office facilities that are more than an incidental part of other capital improvements or for the expenses of the operation or maintenance of the facilities constructed with system development charge revenues. ~~System development charges shall not be expended for costs associated with the construction of administrative office facilities that are more than an incidental part of other capital improvements.~~
- B. B. Any capital improvement being funded wholly or in part with system development charge revenues must be included in the plan and list adopted by the city council pursuant to ORS 223.309 and Section 3.02.080 of this chapter. ~~System development charges shall not be expended for costs of the operation or routine maintenance of capital improvements.~~

(Ord O-93-14 § 1 (part), 1993)

3.02.080 Project plan.

- ~~A. A. ———~~Prior to the establishment of a system development charge, the city council shall prepare a capital improvement plan, public facilities plan, master plan, or other comparable plan that includes:
1. A list of the capital improvements that the city council intends to fund, in whole or in part, with revenues from improvement fees;
 2. The estimated cost and time of construction of each improvement and the percentage of that cost eligible to be funded with improvement fee revenue; and

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3. A description of the process for modifying the plan.
- B. In adopting a plan under Section 3.02.80(A) of this chapter, the city council may incorporate by reference all or a portion of any capital improvement plan, public facilities plan, master plan, or other comparable plan that contains the information required by this section.
- C. The city council may modify such plan and list, as described in Section 3.02.80(A) of this chapter, at any time. If a system development charge will be increased by a proposed modification to the list to include a capacity increasing public improvement, the city council will:
1. At least thirty (30) days prior to the adoption of the proposed modification, provide written notice to persons who have requested notice pursuant to Section 3.02.130 of this chapter;
 2. Hold a public hearing if a written request for a hearing is received within seven (7) days of the date of the proposed modification.
- D. A change in the amount of a reimbursement fee or an improvement fee is not a modification of the system development charge if the change in amount is based on:
1. A change in the cost of materials, labor, or real property applied to projects or project capacity as set forth on the list adopted pursuant to Section 3.02.80(A) of this chapter;
 2. The periodic application of one or more specific cost indexes or other periodic data sources, including the cost index identified in Section 3.02.040 (A) of this chapter. A specific cost index or periodic data source must be:
 - a. A relevant measurement of the average change in prices or costs over an identified time period for materials, labor, real property, or a combination of the three;
 - b. Published by a recognized organization or agency that produces the index or data source for reasons that are independent of the system development charge methodology; and
 - c. Incorporated as part of the established methodology or identified and adopted by the city council in a separate resolution, or if no other index is identified in the established methodology, then the index stated in Section 3.02.040 (A) of this chapter.

~~The council shall adopt by resolution the systems development charge funds project plan. This plan:~~

- ~~1. Lists the capital improvements that may be funded with improvement fee revenues; and~~
- ~~2. Lists the estimated cost and time of construction of each improvement.~~

~~B. In adopting this plan the city council may incorporate by reference all or a portion of any public facilities plan, master plan, capital improvements plan or similar plan that contains the information required by this section. The city may modify this project plan at any time through the adoption of an appropriate resolution. There may be a separate plan for each system, or the plan may include improvements from more than one system.~~

(Ord O-93-14 § 1 (part), 1993)

3.02.090 Collection of charge.

- ~~A. A.~~ The systems development charge is payable upon issuance of:
- ~~1. 1.~~ A building permit;

2. A development permit;

3. ~~2~~ A development permit for development not requiring the issuance of a building permit;

4. ~~3~~ A permit to connect to the water system;

5. ~~4~~ A permit to connect to the sewer system; or

6. ~~5~~ A right-of-way access permit.

~~A.~~ The resolution which sets the amount of the charge shall designate the permit or permits to which the charge applies.

B.

C. If no building, development, or connection permit is required, the system development charge is payable at the time the usage of the capital improvement is increased based on changes in the use of the property unrelated to seasonal or ordinary fluctuations in usage.

~~B.~~ ~~If ~~B.~~~~ If development is commenced or connection is made to the water system, sewer system or storm sewer system without an appropriate permit, the system development charge is immediately payable upon the earliest date that a permit was required.

D.

~~C.~~ ~~C.~~ The city manager or the designee shall collect the applicable system development charge from the permittee when a permit that allows building or development of a parcel is issued or when a connection to the water or sewer system of the city is made.~~e~~

E.

F. ~~D.~~ The city manager or the designee shall not issue such permit or allow connection until the charge has been paid in full, unless provision for installment payments has been made pursuant to Section 3.02.100 of this chapter, or unless an exemption is granted pursuant to Section 3.02.110 of this chapter.

(Ord O-93-14 § 1 (part), 1993)

3.02.100 Installment payment.

A. ~~A.~~ When a system development charge is due and payable, the permittee may apply for payment in twenty semiannual installments, secured by a lien on the property upon which the development is to occur or to which the utility connection is to be made, to include interest on the unpaid balance, if that payment option is required to be made available to the permittee by ORS 223.~~207~~

B. ~~B.~~ The city manager or designee shall provide application forms for installment payments, which shall include a waiver of all rights to contest the validity of the lien, except for the correction of computational errors.

C. ~~C.~~ A permittee requesting installment payments shall have the burden of demonstrating the permittee's authority to assent to the imposition of a lien on the property and that the interest of the permittee is adequate to secure payment of the lien.

D. ~~D.~~ The city manager or designee shall docket the lien in the lien docket. From that time, the city shall have a lien upon the described parcel for the amount of the system development charge, together with interest on the unpaid balance at the rate established by the council. The lien shall be enforceable in the manner provided in ORS Chapter ~~223, and 223~~ and shall be superior to all other liens pursuant to ORS 23.230.

E. Upon written request of City Manager, the Finance Manager is authorized to cancel assessments of system development charges, without further city council action, where a new development approved by a building permit is not constructed and the building permit is cancelled. Any system development charges paid to the city pursuant to the cancelled permit shall be refunded upon request of the applicant. Such refund will be in the amount paid at the time of the payment to the city, unadjusted for inflation.

(Ord O-93-14 § 1 (part), 1993)

3.02.110 Exemptions.

- A. Structures and uses established and existing on or before the effective date of the resolution which sets the amount of the system development charge are exempt from the charge, except water and sewer charges, to the extent of the structure or use existing on that date and to the extent of the parcel of land as it is constituted on that date. Structures and uses affected by this subsection shall pay the water or sewer charges pursuant to the terms of this chapter upon the receipt of a permit to connect to the water or sewer system.
- B. Additions to single-family dwellings that do not constitute the addition of a dwelling unit, as defined by the ~~B~~ Oregon Uniform Building Code and KCMC Building and Construction Code adopted pursuant to Chapter 15-04 of this code, are exempt from all portions of the system development charge.
- C. An alteration, addition, replacement or change in use that does not increase the parcel's or structure's use of a capital improvement are exempt from all portions of the system development charge.

(Ord O-93-14 § 1 (part), 1993)

3.02.120 Credits.

~~—A. The city will grant to an applicant a credit against any improvement fee assessed when the applicant, or the developer from whom the applicant purchased a lot, constructs, or dedicates a qualified public improvement as part of the development. The initial determination on all credit requests shall be a decision by the City Manager or City Manager designee and the applicant bears the burden of evidence and persuasion in establishing entitlement to a system development charge credit and the amount of credit in accordance with the requirements of this Section.~~ ~~A. When development occurs that replaces an existing use and is subject to a system development charge, the system development charge for the existing use, if applicable, shall be calculated and if it is less than the system development charge for the use that will result from the development, 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. If the change in the 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 unless provided for by another subsection of this section.~~

~~B. B. —A credit shall be given to the permittee for the cost of a qualified public improvement upon acceptance by the city of the improvement. The credit provided for in this subsection 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 under this subsection. The request for credit shall be filed in writing no later than sixty days after acceptance of the improvement by the city.~~ To obtain a system development charge credit, the applicant must make the request, in writing, prior to the city's issuance of the first building permit for the development in question. In the request, the applicant must state the following:

- a. Identify the improvement for which the credit is sought;
 - b. Explain how the improvement is a qualified public improvement; and
 - c. Document, with credible evidence, the value of the improvement for which credit is sought.
- C. The system development charge credit shall be an amount equal to the fair market value of the improvement. Fair market value shall be determined by the City Manager based on credible evidence of the following:
 1. For dedicated lands, value shall be based upon a written appraisal of fair market value by a qualified, professional appraiser based upon comparable sales of similar property between unrelated parties in an arms-length transaction;
 2. For a qualified public improvement yet to be constructed, value shall be based upon the anticipated cost of construction. Any such cost estimates shall be certified by a registered professional architect or engineer or based on a fixed price bid from a contractor ready and able to construct the improvement(s) for which the system development charge credit is sought;
 3. For a qualified public improvement already constructed, value shall be based on the actual cost of construction as verified by receipts submitted by the applicant; or
 4. For a qualified public improvement located on, or contiguous to, the site of the development, only the over-capacity portion as described in the definition of qualified public improvement is eligible for a system development charge credit. There is a rebuttable presumption that the over-capacity portion of such a qualified public improvement is limited to the portion constructed larger, or of greater capacity, than the city's minimum standard facility capacity or size needed to serve the particular development.
- D. Form of Credit and Limitation on Use. When given, system development charge credits will be for a particular dollar value as a credit against a system development charge assessed on a development. Credits may only be used to defray or pay the system development charge for the particular capital improvement system to which the qualified public improvement related, e.g., credit from a qualified public improvement for sewer may only be used to pay or defray a sewer system development charge.
- E. System Development Charge Credit Carry-Forward. Where the amount of a system development charge credit approved under this Section exceeds the amount of a system development charge assessed on a development for a particular capital improvement system, the excess credit may be carried forward pursuant to the following rules:
 1. A system development charge credit carry-forward will be issued by the City Manager for a particular dollar value to the developer who earned the system development charge credit and may be used by the developer to satisfy system development charge requirements for any other development applied for by the developer within the city. System development charge credit carry-forwards are not negotiable or transferable to any party other than the one to whom they are issued.

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2. The city will accept a system development charge credit carry-forward presented by a developer as full or partial payment for the system development charge due on any of the developer's developments.
 3. System development charge credit carry-forwards are void and of no value if not redeemed with the city for payment of a system development charge of the same type of capital improvement system for which the credit was issued within ten (10) years of the date of issuance.
- F. System Development Charge Credit Deadline. For all other system development charge credits not carried forward, the applicant must formally request the system development charge credit to the City Manager no later than one hundred eighty (180) days after the later of the following two conditions occurs:
1. Acceptance of the applicable improvement by the city; and
 2. The applicant paying sufficient system development charges for the development to cover the approved system development charge credit.

- ~~C. When establishing a methodology for a system development charge, the city may provide for a credit against the improvements fee, the reimbursement fee, or both, for capital improvements constructed as part of the development which reduce the development's demand upon existing capital improvements and/or the need for future capital improvements, or a credit based upon any other rationale the council finds reasonable.~~
- ~~D. 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. Except as otherwise specifically provided by resolution of the city council, credit shall not be transferable from one development to another.~~
- ~~E. Credits shall not be transferable from one type of system development charge to another.~~
- ~~F. Credits shall be used within ten years from the date the credit is given, or as otherwise specifically provided for in a resolution of the city council.~~

(Ord O-04-2 § 1 (part), 2004; Ord. O-93-14 § 1 (part), 1993)

3.02.130 Notice.

The city shall maintain a list of persons who have made a written request for notification prior to adoption or amendment of a methodology for any system development charge. Written notice shall be mailed to persons on the list at least ninety (90) days prior to the first hearing to adopt or amend a system development charge, and the methodology supporting the adoption or amendment shall be available at least sixty (60) days prior to the first hearing to adopt or amend. The failure of a person on the list to receive a notice that was mailed shall not invalidate the action of the city. The city may periodically delete names from the list, but at least thirty days prior to removing a name from the list must notify the person whose name is to be deleted that a new written request for notification is required if the person wishes to remain on the notification list.

(Ord O-04-2 § 1 (part), 2004; Ord. O-93-14 § 1 (part), 1993)

3.02.140 Segregation and use of revenue.

- A. All funds derived from a particular type of system development charge are to be segregated by accounting practices from all other funds by the city. That portion of the system development charge calculated and

collected on account of a specific facility system shall be used for no purpose other than those set forth in this chapter.

- B. The city manager shall provide an annual accounting, to be completed by January 1 of each year, of system development charges showing the total amount of system development charge revenues collected for each type of charge and the projects funded from each account for the previous fiscal year. The annual accounting shall include a list of the amount spent on each project funded, in whole or in part, with system development charge revenues.

(Ord O-04-2 § 1 (part), 2004: Ord. O-93-14 § 1 (part), 1993)

3.02.145 Refunds.

- A. Refunds shall be given by the City Manager upon finding that there was a clerical error in the calculation of a system development charge.
- B. Refunds shall not be allowed for failure to timely claim a credit under Section 3.02.120 of this chapter, or for failure to seek an alternative system development charge rate calculation at the time of submission of an application for a building permit.
- C. The city shall refund to an applicant any system development charge revenues not expended within ten years of receipt from the applicant. Such refund will be in the amount paid at the time, unadjusted for inflation.

3.02.147 Implementing Regulations; Amendments.

The city council delegates to the Building & Development Services the authority to adopt necessary procedures to implement the provisions of this chapter including the appointment of a System Development Charge Program Administrator. All rules developed pursuant to that delegated authority shall be filed with the office of the City Manager and be available for public inspection.

3.02.150 Appeal procedure.

- A. A person challenging the propriety of an expenditure of system development charge revenue may appeal the decision or the expenditure to the city council by filing a written appeal petition with the City Manager pursuant to Subsection (D) below. An appeal of an expenditure must be filed within two years of the date of the subject expenditure.
- B. A person challenging the propriety of the methodology adopted by the council pursuant to Section 3.02.050 of this chapter may appeal the decision or the expenditure to the council by filing a written appeal petition with the City Manager pursuant to Subsection (D) below. An appeal petition challenging the adopted methodology shall be filed not later than sixty (60) days from the date of the adoption of the methodology.
- C. A person challenging the calculation of a system development charge must file a written appeal petition to the calculation of the system development charge with the City Manager within thirty (30) days of assessment of the system development charge.
- D. Any person submitting an appeal petition pursuant to Subsections (A) through (C) above, must describe, with particularity, the basis for the appeal and include:

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1. The name and address of the appellant;
 2. The nature of the expenditure, methodology, or calculation being appealed;
 3. The reason the expenditure, methodology, or calculation is allegedly incorrect; and
 4. What the correct determination of the appeal should be or how the correct calculation should be derived.
- E. If the appeal petition is untimely or fails to meet the requirements of Subsection (D) above, the appeal shall be dismissed by the council without a hearing.
- F. If the appeal petition is timely filed and submitted in accordance with Subsection (D) above, the council shall order an investigation and direct that within sixty (60) days of receipt of the appeal petition a written report be filed by the City Manager recommending appropriate action. Within thirty (30) days of receipt of that report, the city council shall conduct a hearing to determine whether the expenditure, methodology, or calculation was proper. The city council shall provide notice and a copy of the report to the appellant at least fourteen (14) days prior to the hearing. The appellant shall have a reasonable opportunity to present appellant's position at the hearing.
- G. The appellant shall have the burden of proof. Evidence and argument shall be limited to the grounds specified in the petition. The city council shall issue a written decision stating the basis for its conclusion and directing appropriate action to be taken.
- H. The city council shall render its decision within fifteen (15) days after the hearing date, and the decision of the city council will be final. The decision will 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. If the city council determines that there was an improper expenditure of system development charge funds, the city council shall direct that a sum equal to the misspent amount be deposited within one (1) year of the date of the decision to the account of the fund from which it was spent.
- I. Any legal action contesting the city council's decision on the appeal must be filed within sixty (60) days of the city council's decision. Review of the city council's decision shall be by writ of review pursuant to ORS 34.010 to 34.100.

~~A. A person aggrieved by a decision required or permitted to be made by the city manager under this chapter or a person challenging the propriety of an expenditure of system development charge revenues may appeal the decision or the expenditure to the city council by filing a written request with the city manager describing with particularity the decision of the city manager or the expenditure from which the person appeals.~~

~~B. An appeal of an expenditure must be filed within two years of the date of the alleged improper expenditure. Appeals of any other decision must be filed within thirty days of the date of the decision.~~

- ~~1. The name and address of the appellant;~~
- ~~2. The nature of the expenditure or determination being appealed;~~
- ~~3. The reason the expenditure or determination is incorrect with sufficient specificity to allow the city to respond; and~~
- ~~4. What the correct expenditure or determination should be or how the correct expenditure or determination should be derived.~~

~~The appeal shall be accompanied by a fee set by resolution of the city council. Failure to file the appeal, provide a statement as provided above or file within the applicable time period is jurisdictional. Notice shall be provided to the person who filed an appeal within ten days of the date of the hearing. Notice shall include the date of the hearing, a summary of the hearing process and the right to petition for review the city~~

~~council's decision pursuant to ORS 34.010 to 34.100. After providing notice the city council shall conduct a hearing on the appeal. A verbatim transcript shall be prepared to assure an accurate record of the proceeding. The issues on appeal will be limited to those presented in the appeal except as otherwise authorized by the city council. The person filing the appeal will be provided an opportunity to testify and present written materials to the city council. The appellant shall carry the burden of proving that the expenditure or determination being appealed is incorrect and how such expenditure or determination should be corrected.~~

~~C. The council shall determine whether the city manager's decision or the expenditure is in accordance with this chapter and the provisions of ORS 223.297 — 223.314 and may affirm, modify or overrule the decisions. If the council determines that there has been an improper expenditure of system development charge revenues, the council shall direct that a sum equal to the misspent amount shall be deposited within one year of the date of that determination to the credit of the account or fund from which it was spent. The decision of the council shall be reviewed only as provided in ORS 34.010 to 34.100 and not otherwise.~~

~~D. A legal action challenging the methodology adopted by the council pursuant to Sections 3.02.040 and 3.02.050 of this chapter shall not be filed later than sixty days after the adoption. A person shall contest the methodology used for calculating a system development charge only as provided in ORS 34.010 to 34.100, and not otherwise.~~

(Ord O-04-2 § 1 (part), 2004: Ord. O-93-14 § 1 (part), 1993)

3.02.160 Prohibited connection.

~~No person may connect to the water or sewer systems of the city unless the appropriate system development charge has been paid.~~ No person may connect to the water or sewer systems of the city unless the appropriate system development charge has been paid or the lien or installment payment method has been applied for and approved.

(Ord O-93-14 § 1 (part), 1993)

3.02.170 Penalty.

Violation of this chapter is a Class A infraction punishable by a fine as required by the city's schedule of fees and penalties as approved through resolution of the city council.

(Ord O-94-01 § 4, 1994: Ord. O-93-14 § 1 (part), 1993)

3.02.171 Severability.

The provisions of this chapter are severable, and it is the intention of the council to confer the whole or any part of the powers herein provided for. If any clause, section, or provision of this chapter is declared unconstitutional or invalid for any reason, the remaining portion of this chapter shall remain in full force and effect and be valid as if such invalid portion had not been incorporated into the chapter. It is hereby declared that the council intends that this chapter would have been adopted had such an unconstitutional provision not been included.

3.02.172 Classification.

The city council hereby determines that any fee, rates, or charges imposed by this chapter are not a tax subject to the property tax limitations of Article XI, section 11(b), of the Oregon Constitution.

3.02.180 Construction.

The rules of statutory construction contained in ORS Chapter 174 are adopted and by this reference made a part of this chapter.

(Ord O-93-14 § 1 (part), 1993)