

Glossary for Titles 16 Through 21

1. All criteria in Titles 16 through 21 shall be adhered to. When conflicts arise, the most restrictive criteria shall apply.
2. The following definitions shall apply to Titles 16 through 21 of the MMC.
3. As used in this title, the masculine includes the feminine and neuter, the singular includes the plural, and the following words, unless the context otherwise requires, shall have the meanings set forth in this chapter. Where terms or words are not defined, they shall have their ordinary accepted meanings within the context of their use.

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A

1. **A-FRAME SIGN:** An A-frame sign is a type of temporary sign which has two (2) sides, the frame or support structure of which is hinged or connected at the top of

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- the sign in such a manner that the sign is easily moved and erected.
2. **ACCENT:** An area covering no more than 10% of a building's surface area visible to the public.

3. **ACCESS:** The way or means by which pedestrians and vehicles shall have ingress and egress to the property.
4. **ACCESSORY STRUCTURE OR USE:** A structure or use customarily incidental and subordinate to the principle use or structure, and located on the same lot or tract.
5. **ACRE:** 43,560 square feet.
6. **ADEQUATE FACILITIES:** Those major and minor public facilities, the nature, capacity and location of which are specifically designated in an adopted master plan or CIP (Capital Improvement Plan) or, in the absence of such designation, those major and minor public facilities designed and constructed according to all applicable provisions of this code and the standards and specifications on file in the office of the Director of Public Works.
7. **ADJACENT:** Near or close, but not necessarily abutting or contiguous. For example, a parcel next to, or across the street from another parcel shall be considered "adjacent."
8. **ADJUSTMENT:** A modification, reduction or addition(s) to a code standard but not including a variance.
9. **ADULT FOSTER CARE HOME:** Any family home or facility in which twenty-four (24) hour care is provided for five (5) or fewer adults who are not related to the provider by blood or marriage.
10. **ALTERATION:** An "alteration" may be a change, addition or modification in construction or a change of occupancy including a change from one trade or use to another.
11. **APPLICANT:** The party or parties who submit an application for approval under Titles 16 through 21.
12. **APPLICATION:** Any request for approval of a permit or a legislative amendment to the City's land use regulations, Comprehensive Plan or related maps.
13. **APPROVAL CRITERIA AND APPROVAL STANDARDS:** All standards, which must be met in order to approve an application. Depending upon the specific application, approval criteria include standards contained in the Molalla Municipal Code (MMC), the Molalla Comprehensive Plan and applicable state law.
14. **APPROVED DISCHARGE POINT:** A gutter, ditch, or receptacle approved by the Director of Public Works for the removal of storm water.
15. **ARCHITECTURAL ELEMENT:** Part of a building's fabric, structures and associated services, such as a window.
16. **ARCHITECTURAL FEATURE:** A prominent or significant part or element of a building structure or site.
17. **ARCHITECTURAL STYLE:** The characteristics, form, and detail, as of buildings of a particular historic period.
18. **AREA FACILITY:** A public facility which provides service to an entire area, including, but not limited to, a water reservoir, a water or sewer pump station, a sewer force main, a park or a regional stormwater detention facility.
19. **AUTOMOBILE SERVICE STATION:** Any premises used primarily for supplying motor fuel, oil, minor servicing, excluding

body and fender repair, and for the sale of accessories as a secondary service for automobiles at retail direct to the customer.

20. **AUTOMOBILE WRECKING:** The dismantling or wrecking of used motor vehicles, or the storage, sale of dismantled, partially dismantled, obsolete or wrecked vehicles for their parts.
21. **AWNING:** A sloped projection made of canvas or other non-rigid material, stretched over a frame and extended over a doorway or window. The awning is supported entirely from the exterior wall of the building and provides protection from the weather.

B

1. **BARRIER:** A fence, wall, building, wall or combination thereof, which completely surrounds the swimming pool and obstructs access to the swimming pool.
2. **BASEMENT:** The portion of a building included between a floor with its level two (2) feet or more below the finished grade and the ceiling next above said floor.
3. **BACKFILL:** The replacement of removed earth to its original grade.
4. **BED AND BREAKFAST INN:** A structure occupied as a single-family residence in which sleeping rooms and a breakfast meal for overnight guests are provided, on site, on a daily or weekly basis for a fee.
5. **BEDROCK:** Is in place solid rock.
6. **BILLBOARD:** A sign with a display surface area of 300 square feet or more per sign face.

7. **BLOCK:** Properties abutting one side of a street:
 - A. Between two (2) cross streets
 - B. Between the City limits and the nearest cross street
 - C. When there is only one cross street
 1. Between a cross street and the dead end of a street.
 2. Between a cross street and a line projected from the centerline of an intersecting street, such as a “T” intersection.
 3. When there are no cross streets, then the block shall be between the points 600 feet from the mid-point of the front property line for the property under consideration along the street.
8. **BOARDING, LODGING OR ROOMING HOUSE:** A residential type building or portion thereof, other than a hotel or motel, used to provide lodging for compensation, with or without meals, for not less than four (4) nor more than ten (10) people, not including members of the owner-occupant family.
9. **BOLLARD:** One of a series of posts preventing vehicles from entering an area.
10. **BRACKET:** Projecting support placed under eaves or other overhangs.
11. **BREEZEWAY:** A structure for the principle purpose of connecting the main building or buildings on a property with other main buildings or accessory buildings.
12. **BUFFER AREA:** The horizontal distance generally adjacent to a property line that includes vertical elements, and may include

berms, plants, fences or a wall and may be occupied by screening, utilities, and landscaping materials.

13. **BUILDING:** Any structure built or used for the support, shelter, or enclosure of persons, animals, or property of any kind.
14. **BUILDING FOOTPRINT:** The total area of the building ground floor measured from the exterior faces of the building.
15. **BUILDING HEIGHT:** The vertical distance measured from the level of the first floor above finished grade to the highest point of the roof beams in the case of flat roofs, to the deck line of mansard roofs.
16. **BUILDING LINE:** A line established by this title to govern the placement of a building with respect to the street lot line through the setback requirements of a minimum street yard.
 - A. A building line is ordinarily parallel to the street lot line and at a distance in accordance with the setback requirement.
 - B. For lots contained in an official subdivision plat recorded before the effective date of the ordinance codified in this title, the building line may be taken as shown therein.
17. **BUILDING OFFICIAL:** The person assigned to enforce the Building Code.
18. **BUILDING SETBACK LINE:** An imaginary line established by subdivision regulation or the Molalla Municipal Code requiring all buildings to be set back to or beyond that line which is a certain distance from lot lines or a point within the street right-of-way.
19. **BULK PLANT:** Any establishment where commodities, including both liquids and

solids, are received by pipelines, car, tank, vehicle, or other container, and are stored or blended in bulk for the purposes of distribution by such transportation.

20. **BUSH:** Means a low growing and densely branched woody plant.

C

1. **CAMPING:** The overnight use or stay in a camping facility, but does not include recreational vehicle camping.
2. **CAMPING FACILITY:** Any establishment open to the public or any segment of the public for camping. This does not include an area allowing only isolated, occasional, or infrequent camping when the area has a primary or principle use other than a camping facility.
3. **CANOPY:** Flat projection from a building façade.
4. **CARPOOL:** A group of two (2) or more commuters including the driver, who share the ride to and from work, school and other destination.
5. **CHILDCARE FACILITY:** Any facility that provides childcare to children, including a childcare center, certified family childcare home, and registered family child care home. It includes those known under a descriptive name, such as a nursery school, preschool, kindergarten, child play school, before or after school care, or child development center, except those excluded under ORS 657A.250. This term applies to the total childcare operation and includes the physical setting, administration, staff, equipment, program, and care of the children.
6. **CITY:** The City of Molalla.

7. **CIVIL ENGINEER:** A professional engineer registered in the state to practice in the field of civil works.
8. **CIVIL ENGINEERING:** The application of the knowledge of the forces of nature, principles of mechanics and the properties of materials to the evaluation, design and construction of civil works for the beneficial uses of mankind.
9. **CLINIC:** A building or portion of a building containing facilities which provide medical, dental, psychiatric services (outpatients only) and veterinarian clinics.
10. **COLUMN:** A supporting pillar, especially one consisting of a usually round shaft, a capital, and a base.
11. **COMMERCIAL RECREATION FACILITY:** A sports-oriented business containing facilities for a variety of health, recreational, or social activities. Such facilities may include sports courts, weight rooms, water sports, bowling, miniature golf, indoor or outdoor tracks, restaurants, banquet or conference rooms, childcare facilities, and other similar uses.
12. **COMMON OPEN SPACE:** An area, feature, building or other facility within a development intended for the use by the residents of the development.
13. **COMMON WALL:** A structural wall shared with another dwelling or use.
14. **COMMUNITY PLANNING AREA:** Specialized zoning dealing in mixed uses.
15. **COMMUNITY SERVICE:** Activities and uses of a public, non-profit or charitable nature generally providing a local service to people of the community on site or through employees on the site on public recreation facilities, religious institutions, corrections facilities, emergency services and similar facilities. Community services do not include schools, hospitals, or geriatric care facilities.
16. **COMPACTION:** Densification of a fill by mechanical means.
17. **COMPREHENSIVE PLAN:** This plan comprised of plans, maps, reports, or any combination thereof relating to the future economic and physical growth and development or redevelopment of the City. The Comprehensive Plan serves to forecast anticipated patterns of City development.
18. **COMMUNITY:** Group of interacting people having various interests living in a common location.
19. **CONFERENCE CENTER:** A building or group of buildings used by businesses, community organizations, and individuals for meetings, conferences, and special events. Conference centers may also include kitchen facilities for meal preparation.
20. **CONTIGUOUS:** Parcels, lots and tracts of land, projects, and expansions of existing uses are considered contiguous regardless of interruptions by streets, alleys, public easements or rights-of-way provided that parcels, lots or tracts would otherwise abut.
21. **CORNICE:** An ornamental topping that crowns the structure it is on.
22. **COUNCIL:** The City Council of the City of Molalla.
23. **COURT:** An extent of open ground partially or completely enclosed by walls or buildings; a courtyard. A short street, especially a wide alley walled by buildings on three sides. A large open section of a building, often with a glass roof or skylight.

24. **CURB LINE:** The line indicating the edge of the vehicular roadway within the overall right-of-way.
25. **CURRENT DEVELOPED AREA:** That area of the Molalla Urban Area designated pursuant to the Molalla Comprehensive Plan.

D

1. **DAY:** A calendar day unless otherwise specified. If otherwise referenced it shall be noted as business days.
2. **DAY CARE CENTER:** A facility which provides regular day care services for six (6) or more persons during part of the day, with or without compensation, including nursery schools, preschools, family day care group homes or centers or similar facilities, but not including services provided by a physician or nurse, or facilities operated primarily for education or supervised training, or day care provided by a babysitter.
3. **DEVELOPMENT:** Any man-made change to improved or unimproved real estate, including but not limited to: construction, installation or alteration of buildings or other structures; condominium conversion, land division; establishment or termination of a right of access; storage on real property; tree cutting; clearing, mining, dredging, filling, grading, paving, excavation or drilling operations.
4. **DEVELOPMENT PERMIT:** A permit issued by the City for a development, that complies with the requirements of the City of Molalla Municipal Code and the Comprehensive Plan and its supporting documents.
5. **DEVELOPMENT PLAN:** Any plan adopted by the Planning Commission for the guidance of growth and improvement of the City, including modifications or refinements which may be made from time to time.
6. **DEVELOPER:** One who undertakes development. Such term includes owners and lessees of property to the extent that they are directly responsible for the development of that property.
7. **DIRECTOR OF PUBLIC WORKS:** The Director of Public Works for the City of Molalla.
8. **DRAINAGE COURSE:** Land surface, ditch, or other land feature which serves as a course for the transmission of surface and storm water.
9. **DRIVE THRU FACILITIES:** Facilities allowing transactions for goods or services without leaving a motor vehicle, excluding car washes and motor vehicle service, maintenance and repair facilities also known as “drive-in” facilities.
10. **DWELLING:**
 - A. **Common:** A building with separate bedroom-bathroom-living area for two (2) or more individuals or couples and common or shared kitchen facilities, and may have other common shared facilities.
 - B. **Condominium:** A residential building which is composed of multi-family units that are sold individually where common ownership of the land is maintained by an association.
 - C. **Single-family:** A detached building, other than a mobile or manufactured home containing one (1) dwelling unit.

- D. **Townhouse:** A building composed of two (2) or more dwelling units, with each dwelling unit and its underlying lot platted to allow separate ownership.
- E. **Unit:** An independent living unit within a dwelling structure designed and intended for occupancy by not more than one (1) family and having its own housekeeping and kitchen facilities. Hotel, motel, rooming, and boarding units, which are used primarily for transient tenancy, shall not be considered as dwelling units.

E

1. **EARTH MATERIAL:** Sand, rock, natural soil or fill and/or any combination thereof.
2. **EASEMENT:** A right to use of real property that is granted by the owner of the property to the public or to specific persons, firms or corporations.
3. **ENGINEERING GEOLOGIST:** A geologist experienced and knowledgeable in engineering geology
4. **ERECT OR ERECTED:** To construct, build, assemble, alter, place, affix, attach, create, recreate, paint, draw or in any way bring into being or establish.
5. **EROSION:** Wearing away of the ground surface as a result of the movement of wind, water, and/or ice.
6. **ESTABLISHED GRADE:** The curb line grade established by the City.
7. **EMERGENCY SERVICE FACILITIES:** Facilities housing police, fire or ambulance services; excluding jails.

8. **ENTRYWAY:** A place of entrance.
9. **ESTABLISHMENT:** A term used to describe business activity.
10. **EXCAVATION:** Mechanical removal of earth material.
11. **EXPANSION:** Enlargement of an existing multi-family residential, commercial, industrial, research park or institutional use which increases the overall density and/or intensity of the use. The expansion may be an addition attached to an existing structure or service facility, an additional structure or service facility on the same parcel, or additional structures or facilities constructed on land contiguous with the existing parcel. Construction of new facilities on parcels which are not contiguous are considered new uses, not expansions of an existing use. Except as applied to commercial parking facilities, the term is not applicable to enlargement of existing parking lots and structures.
12. **EXCAVATION:** The mechanical disturbance or removal of earth material.

F

1. **FAÇADE:** A face or elevation of a building.
2. **FAMILY:** An individual or two or more individuals related by blood, marriage, adoption, or legal guardianship living together in a dwelling unit in which meals or lodging may also be provided for not more than two additional individuals excluding servants; or a group of not more than five individuals, excluding servants, who need not be related by blood, marriage, adoption or legal guardianship living together in a dwelling unit. Five or fewer

handicapped persons, along with those individuals charged with caring for such persons and sharing a common dwelling unit, shall be considered a family for purposes of this title.

3. **FASCIA:** The exposed vertical edge of a roof.
4. **FENCE:** Designed and intended to serve as a barrier or as a means of enclosing a yard or other area, or other structure; or to serve as a boundary feature separating two (2) or more properties.
5. **FINAL ACTION OR FINAL DECISION:**
 - A. The City's final decision on a permit application to approve or deny the application and there is either no appeal to another decision maker within the City, or, if there is the possibility of a local appeal, an appeal was not timely filed in accordance with MMC 16.06.400.
 - B. A decision is deemed final on the date that written notice of the decision is mailed to those entitled to notice of the decision.
6. **FILL:** The deposit of earth placed by artificial means.
7. **FINAL PLAT:** A plat of a subdivision prepared for filing with the County, first submitted to the City for Planning Department approval, containing the elements and requirements set forth in this ordinance and applicable State law.
8. **FINISHED GRADE (GROUND LEVEL):** The average of finished ground levels at the center of all walls of the building unless otherwise specified.

9. **FLAG LOT/PARCEL:** A lot or parcel, a portion of which has access to a public road or street via a narrow strip of land. Flag lots shall not be used to create lots that attempt to circumvent street frontage or street access requirements.
10. **FLOOD OR FLOODING:** A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters and/or the unusual and rapid accumulation of runoff of surface waters from any source.
11. **FLOOR AREA:** The area included in the surrounding walls of a building, or portion thereof, exclusive of vent shafts or courts.
12. **FRONTAGE:** The continuous distance along one (1) street right-of-way line of one (1) premise, provided such street is improved for public travel.
13. **FULLY SHIELDED LIGHT FIXTURE:** A light fixture shielded or constructed so that no light rays are emitted by the installed fixture at angles above the horizontal plane as certified by a photometric test report.

G

1. **GARAGE, PRIVATE:** An accessory building or portion of a main building used for the parking or temporary storage of vehicles owned or used by occupants of the main building.
2. **GARAGE, PUBLIC:** A building other than a private garage used for the care and repair of motor vehicles or where such vehicles are parked or stored for compensation, hire or sale.

3. **GRADE:** The vertical location of the ground surface.
 - A. **Existing Grade:** Grade prior to grading.
 - B. **Rough Grade:** Stage at which the grade approximately conforms to the approved plan.
 - C. **Finish Grade:** The final grade of the site which conforms to the approved plan.
4. **GRADING:** Any excavating or filling or combination thereof.
5. **GROSS AREA:** The total usable area, including accessory space dedicated to such things as streets, easements, and uses out of character with the principle use, but within a unit of area being measured.
6. **GUESTHOUSE:** An accessory, detached dwelling unit occupied solely by nonpaying guests or by servants employed on the premises.

H

1. **HALF-STORY:** A space under a sloping roof which has the line of intersection of roof decking and exterior wall face not more than four (4) feet above the top floor level. A half-story containing one (1) or more dwelling units shall be counted as a full story.
2. **HARMONY:** A quality which produces an aesthetically pleasing whole as in arrangement of varied architectural and landscape elements.
3. **HOME OCCUPATION:** An occupation or craft that is carried on in a dwelling place or premises by members of a family being

engaged therein and is incidental to the use of the premises as a dwelling place. A Type B Home Occupation may allow up to one (1) employee outside the immediate family.

4. **HOSPITAL:** An establishment that provides sleeping and eating facilities to persons receiving medical, obstetrical, or surgical care and nursing services on a continuous basis.
5. **HOT TUB:** See Swimming Pool.
6. **HOTEL:** A building in which lodging is provided for ten (10) or more guests for compensation and no provision is made for cooking in the rooms.

I

1. **IMMEDIATE DANGER:** A situation that represents a hazard to life or property.
2. **IMPROVED REAL PROPERTY:** Property, which contains a building or other man made structure.
3. **INCIDENTAL SIGN:** A sign identifying or advertising associated goods, products, services or facilities available on the premises, including but not limited to, trading stamps, credit cards accepted, brand names or price signs.
4. **INSTITUTIONAL DEVELOPMENT:** Includes all public/semi-public and private community facilities and uses, including government office and maintenance facilities, educational facilities; research institutions, correctional institutions, museums, libraries, stadiums, hospitals, auditoriums, convention or meeting halls, churches, parks, public recreational facilities, automobile parking structures, transit transfer points, park and ride facilities, and other similar facilities.

5. **INTERESTED PERSON:** Any person owning land within 500 feet of a subdivision or partition as shown on the records of the County Assessor. Interested person includes affected private and public utilities and public agencies.
6. **INTERIOR LOT:** A lot other than a corner lot.
7. **INTERIOR LOT LINE:** Any property lines that are not street lot lines.
8. **INTERIOR YARD:** a yard lying between the nearest points of a building and the interior lot line and measured at right angles to the interior lot line.

J

1. **JUNKYARD:** An area of more than 200 square feet used for the dismantling, storage or handling in any manner of junked vehicles or other machinery, for the purpose of storage of dismantled material for parts, junk, scrap, and automobile wrecking, if such activity is not incidental to the principle use on the same lot.

K

1. **KENNEL:** Any premises or building in which four (4) or more dogs or cats at least four (4) months of age are kept commercially for board, propagation, or for sale.
2. **KEY:** Designed compacted fill placed in a trench excavated in earth material beneath the toe of a proposed fill slope.

L

1. **LAND DIVISION:** The process of dividing land to create lots or parcels.
2. **LAND SURVEYOR:** A person who determines the metes and bounds of a parcel of land.
3. **LANDSCAPING:** Site improvements which include lawn, groundcover, trees, plants and other natural and decorative features, including but not limited to, patios or plazas open to the public or open commonly to residents, streets, and walkways which are contiguous and integrated with plant material as landscaped areas. Mulch may be used only as a temporary groundcover at the time of planting.
4. **LEASE:** A contract a person enters into for rent, real estate, equipment, or facilities for a specific time and specific cost.
5. **LEGISLATIVE ACTION:** Any final decision of the City that approves or denies a proposal to amend the City's land use regulations, Comprehensive Plan or related maps that was initiated by the City.
6. **LIGHT INDUSTRIAL:** Low- to moderate-impact industrial, manufacturing, processing, and assembly uses that exhibit benign external characteristics. This definition excludes General Industrial uses and any other type, classification, designation or sort of industrial use or process where the industrial establishment may exhibit visible external elements or impacts of manufacturing. This definition also excludes any use containing hazardous materials unless exempt from or granted a Specially Regulated Use Permit. Landscape or other visual screening of external tanks,

chillers or other mechanical or process-related devices shall not suffice to mitigate their external presence such that the industrial use may be classified as “light industrial.”

7. **LIMITED LAND USE DECISION:** A final decision or determination made by the City pertaining to a site, which concerns the approval or denial of a subdivision or partition, as described in ORS Chapter 92, or the approval or denial of an application based on discretionary standards designed to regulate the physical characteristics of a use permitted outright, including but not limited to site review and design review.
 8. **LUMINAIRE:** A complete lighting system, including a lamp or lamps and a fixture.
 9. **LOT:** A parcel of land under single ownership that is used or capable of being used under the regulations of this title, including both the building site and all required yards and open spaces. A "lot" is not the same as a "lot of record," which refers to land designated as a separate and distinct lot on a legally recorded subdivision plat or in a legally recorded deed filed in the records of the City.
 - A. **Area:** The area in square feet or acres (43,560 square feet equals one acre) of a horizontal plane bounded by the vertical extension of the lot lines.
 - B. **Corner:** A lot having two (2) or more adjacent front lot lines in which the interior angle formed by the extensions of the front lot lines in the direction, which they take at their intersections with the side lot lines forms an angle of 135 degrees or less. In the event a street front lot line is a curve at its point of intersection with a side lot line, the tangent to the curve at that point shall be considered the direction of the front lot line.
 - C. **Coverage:** The portion of a lot that is occupied by the principle and accessory buildings, including all projections except eaves, expressed as a percentage of the total lot area.
 - D. **Depth:** The horizontal distance from the midpoint of the front lot line to the midpoint of the rear lot line.
 - E. **Line:** The property line bounding a lot.
 - F. **Line, Front:** In the case of an interior lot, the lot line separating the lot from the street other than an alley, and in the case of a corner lot, the shortest lot line along a street other than an alley.
 - G. **Line, Rear:** A lot line which is opposite and most distant from the front lot line, and in the case of an irregular, triangular, or other shaped lot, a line ten (10) feet in length within the lot parallel to and at maximum distance from the front lot line.
 - H. **Line, Side:** Any lot line not a front or rear lot line.
 - I. **Lot Width:** The horizontal distance between the side lot lines, measured at right angles to the lot depth at a point midway between the front and rear lot lines.
10. **LOT OF RECORD:** A lawfully created lot or parcel established by plat, deed, or contract and recorded in the Clackamas County property records.

M

1. **MAIN BUILDING ENTRANCE:** A primary entrance to a building, intended for use by residents, employees, students, customers, clients, commuters, visitors, messengers or other members of the public.
2. **MAJOR RETAIL USE:** A retail operation with 40,000 square feet or more of gross leasable area per building or business.
3. **MANUFACTURED HOME:** A structure constructed in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction, constructed after June 15, 1976, constructed and permanently installed after transport.
4. **MANUFACTURED/MOBILE HOME PARK:** A development pursuant to ORS 446.003 (32).
5. **MASTER PLAN:** A development plan for a project to be built in two (2) or more phases. A master plan may involve multiple blocks, provided the blocks are contiguous or separated only by public or private streets or right-of-way, pedestrian ways or space, designated open space, park space or protected natural areas, or surface water treatment facilities. May provide the basis for a Concept Development Plan in Development Review.
6. **MECHANICAL HARDWARE AND EQUIPMENT:** Equipment, devices, and accessories, the use of which relates to water supply, drainage, heating, ventilating, air conditioning, and similar purposes.
7. **MINIMUM RESIDENTIAL DENSITY:** The minimum number of residential dwelling units required per net residential acre of developable land. The minimum residential density shall be at least 80% of the maximum number of dwelling units that can be built per net residential acre permitted by the zoning designation for the site. The minimum density permitted for a project is calculated by multiplying the minimum density standard by the net residential acres within the development site. However, in cases where significant natural resources are encountered within developable land, the minimum residential density may be limited to 50% of the maximum permitted by the zoning designation for the site in order to accommodate the protection of such significant natural resources.
8. **MIXED USE DEVELOPMENT:** One (1) or more structures, on a lot or contiguous lots, in which a combination of residential and commercial uses are permitted, but where uses not permitted in the underlying zone are limited to less than 40% percent of the overall floor area of the structure or structures.
9. **MOBILE HOME:** A vehicle or structure constructed for movement on the public highways, that has sleeping cooking and plumbing facilities, is intended for human occupancy and is being used for residential purposes and that was constructed between January 1, 1962, and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction. For the purposes of this chapter and as used in the MMC, a manufactured home is not a mobile home.
10. **MOTEL:** A building or group of buildings on the same lot containing guest units with separate entrances and consisting of individual sleeping quarters, detached or in connected rows, with or without cooking

facilities, for overnight or other short-term rental.

N

1. **NATURAL MATERIALS:** Wood, stone, brick and rock or any combination thereof.
2. **NEARBY:** When used in connection with bicycle and pedestrian access, “nearby” means uses within one (1) half mile distance of such access which can reasonably be expected to be used by pedestrians.
3. **NEIGHBORHOOD ACTIVITY CENTER:** Neighborhood activity centers include, but are not limited to, existing or planned parks, schools, shopping areas, employment centers, transit stops, recreational centers, theaters, museums, and other pedestrian oriented land uses that attract or are capable of attracting a significant level of daily pedestrian usage.
4. **NET ACRE:** One acre of developable land. Net acreage is calculated by adjusting the gross acreage of a parcel or lot by deducting the amount of “undevelopable” land. Net acreage equals the gross square footage of a site minus undevelopable land divided by 43,560. Undevelopable land is defined as, and limited to, that which is:
 - A. Required for dedications of public rights-of-way and easements, and for internal streets required for fire access.
 - B. Areas necessary to accommodate truck-loading docks, along the minimum amount of maneuvering area necessary to safely utilize such a loading dock.
 - C. Required stormwater treatment and detention facilities.
 - D. Required usable open space land whether included on the subject site or as a prorated share of aggregated usable open space or common areas applied to and credited towards the subject site, and any land dedicated to the City for parks or greenways.
 - E. Required set-asides for and setbacks from wetlands and drainage-ways.
 - F. Any area or facility where occupancy is prohibited for safety reasons, such as electrical transformer platforms, industrial chemical and/or gas storage areas, or other similar hazardous facility or area.
 - G. Any land with slopes of 25% or greater or within the mapped 100 year floodplain, unless used for building or parking purposes.
5. **NET BUILDABLE AREA:** The area of a parcel of land or the aggregate of contiguous parcels under the same ownership remaining after deducting any portion of the parcel or aggregate of parcels with one (1) or more of the following characteristics:
 - A. Elevation within a 100-Year Floodplain, as identified on the Federal Emergency Management Agency Flood Insurance Rate Maps.
 - B. Location within a wetland as defined by the Federal Interagency Committee for Wetland Delineation, Federal Manual for Identifying and Delineating Jurisdictional Wetlands.
 - C. Slopes exceeding 25%.
6. **NET RESIDENTIAL ACRE:** A net residential acre is equal to one (1) acre of developable residential land. Net residential

acreage is calculated by adjusting the gross acreage of a parcel or lot by deducting the amount of “undevelopable” land. Net residential acreage equals the gross square footage of a site minus the undevelopable land divided by 43,560. Undevelopable land is defined as, and limited to, that which is:

- A. Required for dedications of public rights-of-way and easements, and for internal public ways required for fire access;
- B. Required for stormwater treatment and detention facilities;
- C. Required set-asides for and setbacks from wetlands and drainage-ways;
- D. Any land with slopes of 25% or greater or within the mapped 100-year floodplain, unless used for building or parking purposes.

7. **NONCONFORMING BUILDING OR**

USE: A lawful existing structure or use at the time this ordinance or any amendment thereto becomes effective that, after the effective date of the amendment, does not conform to the requirements of the zone in which the structure or use is located.

8. **NURSING HOME (INTERMEDIATE**

CARE): A facility licensed by the State which provides, for a period exceeding twenty-four (24) hour nursing care to two (2) or more patients who are not related to the owners or nursing home administrator by blood or marriage.

- A. Such intermediate care nursing home must provide nursing service to those patients who, in the judgment of the physician, registered nurse, and nursing home administrator, require primarily supportive and preventative nursing measures.

- B. "Intermediate care" does not include persons who are actually ill and persons requiring continuous licensed skilled nursing care.

9. **NURSING HOME (SKILLED CARE):**

A facility licensed by the State which provides, for a period exceeding twenty-four (24) hours, the continuous services of licensed nursing personnel to care for two (2) or more chronically ill or infirm patients exclusive of those patients related to the owner or nursing home administrator by blood or marriage. Such skilled nursing home must provide nursing services to those patients who, in the judgment of the physician, registered nurse, and nursing home administrator, require primarily remedial and restorative nursing measures and secondarily supportive and preventative nursing measures.

O

- 1. **OBSELETE SIGN:** A sign that calls attention to a business or other activity or a profession, commodity, product, service or entertainment no longer carried on, produced, sold or offered.
- 2. **OFF-STREET PARKING:** The outdoor parking of more than three (3) cars for a multi-family use, commercial, or industrial establishment.
- 3. **OFFICIAL ZONING MAP:** The official zoning map as adopted, amended, and replaced pursuant to the rules and regulations of the Comprehensive Plan.
- 4. **OWNER:** The owner of record or contract purchaser of real property as shown on the latest deed records of the County.

P

1. **120-DAY PERIOD:** The 120-day period within which ORS 227.178 requires the City to take final action on a complete application.
2. **PARCEL:** A unit of land that is created by a partitioning of land.
3. **PARKING SPACE:** A permanently maintained space with proper access for one (1) standard size automobile as indicated in MMC Chapter 18.44.
4. **PARTITION LAND:** To divide a lot or parcel into two (2) or three (3) parcels within a calendar year, but does not include:
 - A. A division of land resulting from a lien foreclosure, foreclosure of a recorded contract for the sale of real property.
 - B. An adjustment of a property line by the relocation of a common boundary where an additional unit of land is not created and where the existing unit of land reduced in size by the adjustment complies with any applicable zoning ordinance.
 - C. The division of land resulting from the recording of a subdivision or condominium plat.
 - D. Division of land resulting from the creation of cemetery lots.
 - E. A sale or grant by a public agency or public body of excess property resulting from the acquisition of land by the state, a political subdivision or special district for highways, county roads, city streets or other right-of-way when the sale or grant is part of a property line adjustment incorporating the excess

right of way into adjacent property. The property line adjustment shall be approved or disapproved by the applicable local government. If the property line adjustment is approved, it shall be recorded in the deed records of the county where the property is located.

- F. Adjustment of a property line by the relocation of a common boundary where an additional unit of land is not created and where the existing unit of land reduced in size by the adjustment complies with any applicable law or ordinance, including but not limited to provisions pertaining to minimum area, frontage, average width, vehicular access or required setbacks.
 - G. Divisions of land resulting from purchase or the exercise of the power of eminent domain by a governmental entity having lawful authority to do so.
 - H. A sale or grant by a person to a public agency or public body for state highway, county road, city street, or other rights-of-way purposes provided that such road or rights-of-way complies with the comprehensive plan and applicable statutes. However, any property for state highway, county road, City street, or other rights-of-way purposes shall continue to be considered a single unit of land until the property is further subdivided or partitioned.
5. **PAVILLION-HIPPED:** Roof with four (4) sloping planes that meet at a single point.
 6. **PEDESTRIAN/BICYCLE ACCESSWAY:** Any off-street path or way designed and constructed for use by pedestrians and bicyclists which provides direct routes within and from new

subdivisions and planned unit developments to other residential areas, transit streets, shopping areas and neighborhood activity centers where such routes are not otherwise provided by the street system. Pedestrian/bicycle accessways through parking lots should be generally physically separated from adjacent vehicle parking, parallel vehicle parking, of vehicular traffic by curbs or similar devices and include landscaping, trees and lighting. Where pedestrian/bicycle accessways cross driveways, they are generally raised, paved or marked in a manner that provides for convenient and recognized access for pedestrians.

7. **PEDESTRIAN CONNECTION:** A continuous, unobstructed, reasonably direct route between two points that is intended and suitable for pedestrian use. Pedestrian connections include but are not limited to sidewalks, pedestrian walkways, pedestrian/bicycle accessways, stairways and pedestrian bridges. On developed parcels, pedestrian connections are generally hard surfaced. In parks and natural areas, pedestrian connections may be soft-surfaced pathways.
8. **PEDESTRIAN PLAZA:** A small, semi-enclosed area, usually adjoining and connecting directly to a sidewalk, pedestrian walkway, transit stop or building entrance, that provides a place for pedestrians to sit, stand or rest. Pedestrian plazas are usually paved with concrete, pavers, bricks or similar material and include seating, pedestrian scale lighting and similar pedestrian scale elements and improvements. Pedestrian plazas typically include low walls or planters and landscaping to create a semi-enclosed space and to buffer and separate the plaza from adjoining parking lots and vehicle maneuvering areas. A plaza having 150 to

250 square feet of area would be considered "small."

9. **PEDESTRIAN-SENSITIVE:** Development designed and oriented with an emphasis on pedestrian access to and use of the site, and the buildings and dwellings within the site, rather than being designed and/or sited so as to give preference to auto access and parking areas.
10. **PEDESTRIAN WALKWAY:** A hard surfaced facility for pedestrians within a development or between developments, distinct from surfaces used for motor vehicles. A pedestrian walkway is distinguished from a sidewalk by its location on private property outside the public rights-of-way and from a pedestrian/bicycle accessway and pedestrian connection by the primary function it serves which is to provide for safe and convenient pedestrian movement within a site or property.
11. **PEDESTRIAN WAY:** A right-of-way for pedestrian traffic.
12. **PERMIT:** The quasi-judicial approval of a land use application that is issued by the City under MMC section 16 through 20, including subdivisions, partitions, property line adjustments, abandonments, zone changes and plan amendments.
13. **PERSON:** Any individual, firm, partnership, association, company, social or fraternal organization, corporation, estate, trust, receiver, syndicate, branch or government, trustee, receiver, assignee, or any other group or combination acting as a unit.
14. **PIER:** An upright structure of masonry to serve as a principal support, whether isolated or part of a wall.

15. **PLANNING COMMISSION:** The commission established under Section 16.04.310 of the Molalla City Code..
16. **PLANNING DIRECTOR:** The Planning Director of the City of Molalla or the Planning Director's designee.
17. **PLAT:** A final map, diagram, drawing, replat, or other writing containing all the descriptions, locations, specifications, dedications, restrictions, provisions, and other information concerning a subdivision. Except where otherwise stated, the term “plat” includes the term “map.”
18. **PREMISES:** A lot or number of lots on which are situated a business, or a building or group of buildings designed as a unit.
19. **PRELIMINARY PLAT/PLAN:** A preliminary diagram or drawing concerning a partition or subdivision.
20. **PROJECTING SIGN:** A sign other than a wall sign that is attached to or projects more than 18-inches from a building face or wall.
21. **PROPERTY LINE:** The division line between two (2) units of land.
22. **PROPERTY LINE ADJUSTMENT:** A relocation of a common boundary between two (2) adjoining legal lots of record.
23. **PUBLIC ACCESS WAY:** A walkway that provides pedestrian and bicycle passage either between streets or from a street to building or other destination such as a school, park, or transit stop.
24. **PUBLIC FACILITY:** A park, street, alley, sewer collection line, water distribution line, sewage or water pumping station, water reservoir, or storm drain line, channel, or detention facility.
25. **PUBLIC IMPROVEMENTS:** The physical structures and facilities that are developed, owned and maintained by public agencies to house governmental functions and provide water, power, waste disposal, transportation and similar services in accordance with established public policy.
26. **PUBLIC PARKS AND RECREATIONAL FACILITIES:** Indoor and outdoor space and facilities intended to serve the needs of the general public, and include but are not limited to nature parks, ball fields, specialty facilities, aquatic centers, open space, and spaces in which community services are provided.

Q

1. **QUALIFIED ENGINEER:** An engineer licensed in Oregon who, in the judgment of the Planning Director and/or the Director of Public Works possesses the knowledge, experience, and ability to successfully design and oversee a project involving excavations or fills regulated by the MMC.
2. **QUASI-JUDICIAL ACTION:** A final decision of the City that applies the provisions of Molalla Municipal Code titles 16 through 21 to an application that affects a specific property or small set of properties and which is legally required to result in a decision by the City.

R

1. **RAMADA:** An open or semi-enclosed shelter roofed with brush or branches, designed especially to provide shade. An open porch or breezeway.
2. **REASONABLY DIRECT:** Either a route that does not deviate unnecessarily

from a straight line or, a route that does not involve a significant amount of out of direction travel.

3. **RECORD:** The public record compiled for each quasi-judicial and legislative action and includes the written minutes of all public meetings, audio tape recordings, public meetings, the application and all materials submitted by the applicant, all documents, evidence, letters and other materials submitted by any party to the decision making proceeding, staff reports, public notices, and all decisions rendered by City decision makers.
4. **RECREATIONAL FACILITIES:** Indoor and outdoor facilities, excluding usable open space, intended to serve the recreational needs of the general public.
5. **RECREATIONAL VEHICLE CAMPING:** The overnight use or stay in a recreational vehicle camping park in a vacation trailer or a self-propelled vehicle or structure equipped with wheels for highway use, and is intended for human occupancy.
6. **RECREATIONAL VEHICLE CAMPING PARK:** Any establishment open to the public or any segment of the public for recreational vehicle camping, and includes any such establishment which is open to use free of charge or through payment of a fee or membership dues, or by virtue of any rental, lease, license, membership, association or common ownership. "Recreational vehicle camping park" does not mean an area allowing only isolated, occasional, or infrequent recreational vehicle camping when the area has a primary or principle use other than as a recreational vehicle camping park.
7. **REDEVELOPABLE LAND:** Land on which development has already occurred but due to present or expected market

forces, existing development is likely to be converted or replaced with a more intensive use.

8. **REHABILITATION:** As applied to buildings and residential structures within the downtown area, rehabilitation includes routine maintenance and corrective measures intended to bring the structure closer to compliance with the existing building code. Rehabilitation maintains the overall structural and decorative characteristics and the visual integrity of the original architecture but may include additions, new elements and technologies to meet current building codes and incorporate modern lifestyles or business needs, provided such modern elements are introduced only where necessary and are accomplished in a manner sympathetic to the original design. Rehabilitation does not require the technical or historic replication called for in restoration and may include compatible elements not found in the original structure or dwelling.
9. **REMODEL:** To update a structure that may or may not include structural alterations.
10. **REPLAT:** The act of platting the lots, parcels, and easements in a recorded subdivision or partition plat to achieve a reconfiguration of the existing subdivision or partition plan or increase or decrease the number of lots in the subdivision.
11. **RESERVE STRIP:** A strip of land, usually one (1) foot in width, deeded to the City, reserved across the end of a street or alley and terminating at the boundary of a subdivision or partition; or a strip of land deeded to the City between a dedicated street and adjacent property; in either case reserved or held by the City for future street

extension or widening, or to prohibit access from property adjacent to a street.

physician or registered nurse, is not a "residential home."

12. **RESIDENTIAL RECREATION**

CENTER: A private property or structure for which recreation is the primary use, the structure or use being developed in conjunction with a surrounding residential development.

13. **RESIDENTIAL CARE FACILITY:** A residence, boardinghouse, apartments or home for the aged operated for the purpose of providing room, board, and/or care, and when appropriate, a planned treatment or training program of counseling, therapy, or other rehabilitative social service, for persons of similar or compatible conditions of circumstances.

A. A "residential home" for six (6) or more elderly, or physically or mentally handicapped persons, and foster and shelter care homes for seven (7) or more children are "residential care facilities."

B. Facilities, which require regular on-premises supervision by a registered physician or registered nurse, are not "residential care facilities."

14. **RESIDENTIAL HOME:** A single-family dwelling, manufactured home, or apartment in which five or fewer related or unrelated elderly, or physically or mentally handicapped persons, plus necessary staff persons who need not be related to each other or to any other home resident, live together as a single dwelling unit as defined in this chapter.

A. An adult foster home, as defined in this chapter, is a residential home.

B. A facility, which requires regular on-premise supervision by a registered

15. **RESIDENTIAL STRUCTURES:**

A. **Single-family Detached Dwelling:** A family detached dwelling unit constructed on-site or elsewhere, situated on its own lot or parcel.

B. **Single-family Attached Dwelling:** A family dwelling unit, located on its own lot that shares one (1) or more common or abutting walls with one (1) or more dwelling units.

C. **Duplex:** A structure that contains two primary family dwelling units on one (1) lot.

D. **Attached Duplex:** A duplex, located on its own lot that shares one (1) or more common or abutting walls with one other duplex, thereby totaling four (4) dwelling units.

E. **Multi-family Dwelling:** A structure on a single lot or parcel containing three (3) or more family units which share common walls or floor/ceilings with the adjacent unit(s). Multi-family dwellings include condominium and apartment units without regard to ownership status, and includes congregate (or independent) care and assisted care facilities for the elderly, but excludes all types of nursing home, convalescent care and institutional type living arrangements.

F. **Rowhouse:** A building that has single family dwelling units erected in a row as a single building on adjoining lots, each being separated from the adjoining unit or units by a common wall or walls extending from the basement floor to the roof along the dividing lot line, and

each building being separated from any other building by space on all sides. The common wall or walls of a row house shall consist of a structural wall, which is shared for at least 50% of the length of the side of the dwelling. Each dwelling unit in a row house development shall have no more than two (2) common walls.

G. **Townhouse:** A single-family attached dwelling of two (2) or more stories, in a building of two (2) or more units, with each dwelling unit and its underlying lot platted to allow separate ownership.

H. **Ancillary Dwelling Unit:** An additional dwelling unit located on the same lot as a single-family dwelling or duplex.

16. **RESTORATION:** To restore a structure or area to its original condition.

17. **RIGHTS-OF-WAY:** The area between lines of a street or other easement allowing a legal right of passage.

18. **ROOF:**

A. Gabled – Constructed with a single slope on each side of the ridge supported at the end by a gable or vertical triangular portion of an end wall.

B. Gambrel – A gable roof with two (2) slopes on each side with the lower slope being steep.

C. Hipped – A four (4) sided roof having sloping ends and sides.

D. Mansard – A four (4) sided roof having a double slope, with the lower slope greater than the upper.

S

1. **SAFE AND CONVIENENT:** When used in connection with bicycle and pedestrian access, “safe and convenient” means bicycle and pedestrian routes, facilities and improvements that are reasonably free from hazards (particularly types or levels of automobile traffic which would interfere with or discourage short pedestrian or bicycle trips). These routes provide a reasonably direct route of travel between the place of origin and place of destination, and meet the travel needs of pedestrians and bicyclists considering destination and length of trip and an optimum trip length for pedestrians of generally one-quarter to one-half mile.

2. **SALT BOX:** Having about the same roof pitch in both directions so that the roof ridge is well toward the front of the house.

3. **SEASONAL USE:** Temporary uses of less than forty-five (45) days duration where the use is centered around a holiday or occasion, including fireworks stands, Christmas tree lots, and other similar types of uses but excluding temporary uses for which a Special Events Permit has been granted by the City Council.

4. **SECURITY FENCE:** A fence constructed to prohibit passage of persons or animals.

5. **SENIOR CITIZEN/HANDICAPPED HOUSING FACILITY:** A multi-unit housing center with common facilities and services provided for elderly or handicapped residents who require or desire a more supportive living environment than typically afforded to residents in apartments or single-family residential housing. Nursing care and personal services may be provided on a limited basis.

6. **SETBACK:** The distance between a specified lot line and the foundation or exterior wall of a building or structure.
 - E. **Front:** The horizontal distance measured at right angles from the front lot line to the nearest point of a building on a lot.
 - F. **Rear:** The horizontal distance measured at right angles from the rear lot line to the nearest point of a building on the lot.
 - G. **Side:** The horizontal distance measured at right angles from the side lot line to the nearest point of a building on a lot.
7. **SEWER MASTER PLAN:** A master plan for development, location, size and classification of sewer collection and treatment facilities to serve property within the Urban Growth Boundary.
8. **SIDEWALK:** A pedestrian walkway with permanent surfacing built to city standards, adjacent to a roadway.
9. **SIGHT OBSCURING FENCE:** A fence or evergreen planting of such density and so arranged as to obstruct vision. Chain link with slats is not considered sight obscuring.
10. **SHRUB:** A woody plant of relatively low height, having several stems arising from the base and lacking a single trunk.
11. **SIGN:** Any display message, emblem, device, figure, painting, drawing, placard, poster, billboard or other thing that is designed, used or intended for advertising purposes or to inform or attract the attention of the public. The term includes the sign structure, display surface and all other component parts of a sign; when

dimensions of a sign are specified, the term includes panels and frames; and the term includes both sides of a sign of specified dimensions or display surface area. A presentation or representation, other than a house number, by words, letters, figures, designs, pictures, or colors publicly displayed so as to give notice relative to a person, a business, an article of merchandise, a service, an assemblage, a solicitation or a request for aid, or other type of advertising. This includes the surface upon which the presentation or representation is displayed. Each display surface of a sign shall be considered a sign.

- A. **Display Surface Area:** The total area of a sign that is available for display or advertising subject to the provisions of chapter 18.60 of this code.
- B. **Freestanding Sign:** A sign supported from the ground by its own structure.
- C. **Prohibited Signs:** A sign which bears or contains statements, words, or pictures of an obscene, indecent or immoral character such as will offend the public morals or decency.
- D. **Projecting Sign:** A sign projecting more than one (1) foot from the wall of a building.
- E. **Sign Face:** The total display surface area visible from one side of a sign.
- F. **Sign Official:** A person designated by the Planning Department to enforce the sign code of the MMC. This includes the review of permit applications, the interpretation of the provisions of this chapter and the issuance of permits.
- G. **Temporary Sign:** A sign that will become obsolete after the occurrence of an event or series of events which shall

extend no more than three (3) months in any calendar year. Temporary signs include, but are not limited to, for sale and lease signs, garage sale signs and political campaign signs.

H. **Wall Sign:** A sign erected or inscribed on a wall.

12. **SIGNIFICANT ALTERATION:** A revision to the design theme, i.e., change from Victorian to Tudor style; or addition or deletion of square footage in excess of 1,000 square feet; or revision of the type of building material utilized so as to materially change the exterior appearance of the structure; or material revision to the landscaping, parking or other feature of the site.
13. **SITE:** Any lot or parcel of land or contiguous combination thereof, under the same ownership where grading is performed or permitted.
14. **SLOPE:** Inclined ground surface the inclination of which is expressed as a ratio of horizontal distance to vertical distance.
15. **SOIL:** Naturally occurring superficial deposits overlying bedrock.
16. **SOILS ENGINEER:** A civil engineer experienced and knowledgeable in the practice of soils engineering.
17. **SOILS ENGINEERING:** The application of the principles of soil mechanics in the investigation, evaluation and design of civil works involving the use of earth materials and the inspection and testing of the construction thereof.
18. **STOREFRONT:** Street-facing façade area below the floor plane of the second floor.

19. **STORMWATER MASTER PLAN:** A master plan for the location, size, and classification of storm drainage facilities to serve property within the Urban Growth Boundary.

20. **STORY:** That portion of a building included between the upper surface on any floor and the upper surface of the floor next above, except that the top story shall be that portion of a building included between the upper surface of the top floor and the ceiling above.

21. **STREET:** The entire width between the boundary lines of every way which provides for public use for the purpose of vehicular and pedestrian traffic, and the placement of utilities and including the terms "road," "highway," "land," "place," "avenue," "alley," or their similar designations. A public rights-of-way or access easement twenty (20) feet or less in width shall not constitute a street, nor shall a private way of travel twenty-five (25) feet or less in width providing access to no more than four (4) lots or parcels and zoned for residential uses. A private way of travel on property zoned for commercial or industrial uses, and greater than twenty-five (25) feet in width, may be allowed at the discretion of the Planning Director. A public or private way that is created to provide ingress or egress for persons to more than one (1) lot, parcel, area or tract of land.

A. **Arterials:** Arterials are roadways that are primarily intended to serve traffic entering and leaving the urban area. While arterials may provide access to adjacent land, that function is subordinate to the travel service provided to major traffic movements. Arterials are the longest-distance, highest-volume roadways within the Urban Growth Boundary. Although the

streets focus on serving longer distance trips, pedestrian and/or bicycle activities often are also associated with the arterial streetscape.

- B. **Collectors:** Collector streets facilitate the movement of city traffic within the urban growth boundary of the City. Collectors provide some degree of access to adjacent properties, while maintaining circulation and mobility for all users. Major collectors are distinguished by their connectivity and higher traffic volumes, although they are designed to carry lower traffic volumes at slower speeds than arterials. Major collector streets are characterized by two (2) or three (3) lane facilities. Minor collectors carry lower volumes than major collectors and have two (2) lane cross sections.
- C. **Neighborhood:** The primary function of neighborhood streets is to connect neighborhoods with the collector and arterial street system, facilitate the movement of local traffic, and provide access to abutting land uses. Speeds on these facilities should remain low to ensure community livability and safety for pedestrians and bicyclists of all ages. On-street parking is more prevalent and pedestrian amenities are typically provided. Striped bike lanes are unnecessary for most neighborhood streets because the traffic volumes and speeds should allow cyclists to travel concurrently with motorists.
- D. **Local:** Local streets are primarily intended to provide access to abutting land uses. Local street facilities offer the lowest level of mobility and consequently tend to be short, low-speed facilities. As such, local streets should primarily serve passenger cars,

pedestrians, and bicyclists; heavy truck traffic should be discouraged. On-street parking is common and sidewalks are typically present.

- E. **Alley:** Narrow street through a block primarily for vehicular service access to the back or side of properties abutting on another street. This public space or thoroughfare is not more than twenty (20) feet and not less than ten (10) feet in width and has been dedicated or deeded to the public and accepted by the City for public use providing a secondary means of motor vehicle access to abutting property.
 - F. **Cul-de-sac:** A street with a larger than normal turn around which is circular in shape at the terminus.
 - G. **Roadway:** The portion or portions of rights-of-way developed as a street for vehicular traffic.
 - H. **Marginal Access Street:** A minor street parallel and adjacent to a major arterial street providing access to abutting properties, but protected from through traffic.
 - I. **Half Street:** A portion of the width of a street, usually along the edge of a subdivision where the remaining portion of the street could be provided by development of another subdivision.
- 22. **STREETSCAPE:** The scene as may be observed along a public street or way composed of natural and man-made components, including buildings, paving, planting, street hardware, and miscellaneous structures.
 - 23. **STRUCTURE:** That which is built, erected or constructed; an edifice or building of any kind or any piece of work

artificially built up or composed of parts joined together in some definite manner.

24. **STRUCTURAL ALTERATION:** Any change to the supporting members of a building including foundations, bearing walls or partitions, columns, beams, or girders, or any structural change to the roof.
25. **SUBDIVIDE LAND:** To divide a lot or parcel into four (4) or more lots within the calendar year that the lot or parcel existed under a single ownership at the beginning of the year.
26. **SUBDIVISION:** An act of subdividing land or a tract of land subdivided.
27. **SUBDIVISION BOND:** A security to ensure work contracted to perform will be accomplished in accordance with plans approved by the City.
28. **SUB-DIVIDER:** A person or entity submitting an application to subdivide property.
29. **SUBJECT PROPERTY:** The real property that is the subject of a quasi-judicial permit application or legislative application.
30. **SWIMMING POOL:** Any structure intended for swimming or recreational bathing that contains water over 24 inches deep. This includes in-ground, aboveground and on-ground swimming pools, hot tubs and spas.
 - A. **Swimming Pool, Indoor:** A swimming pool which is totally contained within a structure and surrounded on all four sides by walls of said structure.
 - B. **Swimming Pool, Outdoor:** Any swimming pool which is not an indoor pool.

T

1. **TELECOMMUNICATIONS FACILITIES:** The sites, structures, equipment, and appurtenances used to transmit, receive, distribute, provide or offer telecommunication services, including but not limited to antennas, poles, towers, cables, wires, conduits, ducts, pedestals, vaults, buildings, electronics and switching equipment.
2. **TELECOMMUNICATIONS SYSTEMS:** The sending and receiving of radio frequency transmissions, the connection and/or relaying of these signals to land lines or other sending and receiving stations, cellular, radio, telephone, personal communications services, enhanced/specialized mobile radio, and commercial paging services.
3. **THROUGH LOT:** A lot having frontage on two (2) parallel or approximately parallel streets.
4. **TRACT:** An expanse or area of land, water, etc.
5. **TRAFFIC CIRCULATION:** A general term denoting provisions to accommodate or encourage all modes of travel and movement, which include, but are not limited to motor vehicle, pedestrian and bicycle travel.
6. **TRAFFIC CONTROL SIGN OR DEVICE:** An official route marker, guide sign, warning sign or sign directing or regulating traffic or pedestrians which has been erected by or under order of the City of Molalla, Clackamas County, State of Oregon, or the Federal Government.
7. **TRANSIT STOP:** Any posted bus stop.

8. **TRANSOM:** A window above an opening such as a door or window built on a horizontal crossbar; often hinged on the top to swing open for ventilation.
9. **TREE:** A perennial woody plant having a caliper of more than eight (8) inches measured at four (4) feet above grade.
 - A. **GROUP OF TREE'S:** A group of trees is 4 or more trees located in the same general area.
 - B. **STREET TREE:** A tree, shrub, or bush on land lying within a dedicated right-of-way along either side of a street, avenue or otherwise within a dedicated utility easement.
10. **TRIM:** Finished woodwork or the like that is used to decorate or border openings or wall surfaces, as cornices, baseboards or moldings. Trim is typically used to accentuate structural characteristics and enhance the aesthetic appeal of said structure.

U

1. **UNDERSIZED LOT OR PARCEL:** A lot, parcel or tract of land that does not satisfy the area requirements of the underlying zoning district.
2. **UNIMPROVED PROPERTY:** Property that is not improved as defined in this section.
3. **UPPER FAÇADE:** Above the storefront. Displays the structure's essential architectural style.
4. **URBAN SERVICE AREA:** That portion of the Molalla urban area as stated in the Molalla Comprehensive Plan.

5. **URBAN GROWTH BOUNDARY:** The Urban Growth Boundary as adopted as part of the Molalla Comprehensive Plan and shown on the general plan map.
6. **USE:** An activity or purpose for which land or a structure is designed, arranged, or intended, or for which it is occupied or maintained.
7. **UTILITIES:** Water, gas, sewer, storm drainage, electrical, telephone, wire communication service, cable television, all persons and companies supplying the same.

V

1. **VANPOOL:** A group of five (5) or more commuters including the driver, who share the ride to and from work, school or other destination on a regularly scheduled basis.
2. **VARIANCE:** An exception to the requirements of the Molalla Municipal Code for the subdivision or partitioning of land.
3. **VISION CLEARANCE AREA:** A triangular area on a lot at the intersection of two streets, or a street and an alley, or a street and a railroad. The purpose of vision clearance is to create an aisle in which vehicles of types and sizes can see from any direction making it safe to enter the road system.

W

1. **WALL:** A structure made of stone, brick, or other materials intended for security or for an enclosure.
2. **WALL SIGN:** A sign that is in any manner affixed to or painted onto any exterior wall of a building or structure or

etched into exterior glass of a building or structure and that projects not more than 18 inches from the building or structure, this includes; signs affixed to architectural projections from a building, provided the copy area of such signs remains on a parallel plane to the face of the building façade or to the face or faces of the architectural projection to which it is affixed.

3. **WALKWAY:** A right-of-way deeded, dedicated, and designated for the use of non-motorized vehicles and pedestrians.
4. **WATER MASTER PLAN:** A master plan for the location, size, and classification of water treatment, transmission and distribution facilities to serve the property within the Urban Growth Boundary.
5. **WATERWAY:** Any perennial river, stream, or creek within the City of Molalla so designated by the Molalla Comprehensive Plan.
6. **WETLANDS:** Area inundated by surface or groundwater sufficient to support a prevalence of vegetation or aquatic life, which requires saturation or seasonally saturated soil conditions for growth and reproduction.
 - A. Wetlands generally include swamps, marshes, bogs, sloughs, wet meadows, river overflows, mud flats, natural ponds and other similar areas.
 - B. Except when provided as a mitigation measure to satisfy City, State or Federal regulations, wetlands do not include areas of private property which otherwise satisfy the above definition. However, if it was created by human activity as part of an approved development project after the date of

initial acknowledgment of the City of Molalla's Comprehensive Plan under ORS 197.251.

7. **WINDOW:** An opening in the wall of a building that is made of transparent material.
8. **WITHDRAWAL:** The detachment, disconnection, or exclusion of territory from the City or district.

Y

1. **YARD:** An open space on a lot which is unobstructed and provides; fences, walls, poles, posts, other customary yard accessories, ornaments and furniture or other allowed accessory structures or uses may be permitted in any yard as long as height limitations and requirements limiting obstruction of visibility are met.
 - A. **Front:** A yard between side lot lines and measured horizontally at right angles to the front lot line to the nearest point of the building.
 - B. **Rear:** A yard between side lot lines and measured horizontally at right angles to the rear lot line to the nearest point of the main building.
 - C. **Side:** A yard between the front and rear yard measured horizontally and at right angles to the side to the nearest point of the building.
 - D. **Front (Corner Lot):** In a corner lot, the yards abutting all intersecting streets.
 - E. **Interior (Corner Lot):** In a corner lot, a yard adjacent to any lot line which is not a street line.

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16.04.010 TITLE

The ordinance codified in Title 16 shall be known as the "LAND USE PROCEDURES ORDINANCE" and may be so cited and pled.

16.04.100 HEARINGS OFFICER-APPOINTMENT

The City Administrator, subject to the approval of the City Council, may appoint a planning and zoning Hearings Officer to serve the City Council. Said Hearings Officer shall conduct hearings, make decisions, or recommendations on applications for such matters as approved in this chapter.

16.04.110 HEARINGS OFFICER-QUALIFICATION-COMPENSATION

The Hearings Officer shall be a member in good standing of the Oregon State Bar Association and shall be paid such compensation as agreed between such Hearings Officer and the City Council.

16.04.120 HEARINGS OFFICER-ADOPTION OF RULES FOR CONDUCT OF HEARINGS

The Hearings Officer is authorized to adopt rules of procedure for the conduct of hearings pursuant to this chapter, provided such rules do not conflict with state law, the City charter and ordinances, or the Comprehensive Plan. A copy of such rules shall be available for review at no cost or purchase for a nominal fee

16.04.130 HEARINGS OFFICER-RULES OF EVIDENCE AT PUBLIC HEARINGS

Public hearings before the Hearings Officer shall be subject to the following rules of evidence:

All interested persons shall be allowed to testify. A verbatim record of the proceeding shall be made by written, mechanical or electronic means. This record need not be transcribed except upon review of the record.

1. All evidence offered and not objected to may be received, unless excluded by the Hearings Officer on the Hearings Officer's own motion. Evidence received at any hearing shall be of the quality that reasonable persons rely upon in the conduct of their everyday affairs. Evidence may be received in written form at or prior to the hearing.
2. The Hearings Officer may exclude irrelevant, unduly repetitious, immaterial or cumulative evidence. Any erroneous admission of evidence by the Hearings Officer shall not preclude action or cause reversal on appeal unless shown to have substantially prejudiced the rights of a party.
3. All evidence shall be offered and made a part of the record in the case, except for matters

stipulated to and except as provided in subsection (3) of this section, no other factual information or evidence shall be considered in the determination of the case. Documentary evidence may be received in the form of copies of excerpts or by incorporation by reference.

4. The Hearings Officer may take notice of judicially cognizable facts, and take notice of general, technical or scientific facts within the Hearings Officer's specialized knowledge.
5. Every party is entitled to an opportunity to be heard and present and rebut evidence.

16.04.140 HEARINGS OFFICER – CHALLENGE OF DECISION

1. A party may challenge the Hearings Officer on the grounds of bias, ex-parte contact, or that the Hearings Officer has a legal conflict of interest. A written challenge must be delivered by personal service to the City Recorder and the Planning Department not less than three (3) calendar days preceding the time set for public hearing.

A challenge of the Hearings Officer's decision shall be entered in the record of the action.

16.04.200 CITIZENS ADVISORY COMMITTEE - PURPOSE

The purpose of the Citizens Advisory Committee is to assist in determining the community's interest in land use proposals and present such view at public hearings before the Hearings Officer, Planning Commission and City Council. A Citizens Advisory Committee meeting shall be for the purpose of reviewing current land use applications, ordinance and Comprehensive Plan amendments, and preparing written or oral testimony regarding such proposals to be presented at the appropriate public hearing. The committee is authorized to file appeals from a decision of the City staff or Hearings Officer. The Planning Commission acts as the City's officially recognized Citizen Advisory Committee.

16.04.210 CITIZENS ADVISORY COMMITTEE – APPOINTMENT AND TERMS OF MEMBERS

The Planning Commission is appointed as the Citizens Advisory Committee. At the discretion of the City Council or on petition by resolution from the Planning Commission, the City Council may establish a separate Citizens Advisory Committee. Terms of members shall run concurrently with their membership on the Planning Commission. If a separate Citizens advisory Committee is established, the City Council shall appoint to it at least three (3) but no more than seven (7) voting citizens who reside within the City limits. Such appointments shall be for a term of one (1) year.

16.04.220 CITIZENS ADVISORY COMMITTEE – MEETINGS – QUORUMS - OFFICERS

The Citizens Advisory Committee shall operate under the same rules and policies as those established for the Planning Commission.

16.04.300 PLANNING COMMISSION - PURPOSE

The purpose of the Planning Commission shall be to conduct the review of the Comprehensive Plan, implement ordinances, hold hearings and make decisions and recommendations to the City Council on major plan and ordinance amendment applications as well as other such matters approved in this chapter.

16.04.310 PLANNING COMMISSION – CREATED – COMPOSITION – COMPENSATION

1. There is created a City Planning Commission for the City of Molalla.
 - A. The Planning Commission shall consist of the following:
 - 1) Voting members
 - a. A minimum of three (3) but no more than seven (7) members to be appointed by the City Council.
 - b. No more than two (2) voting members may be non-residents of the City. There shall be more residents of the City than non-residents sitting on the board at all times.
 - 2) City involvement seats on the Planning Commission
 - a. The Planning Commission may place an additional two (2) non-voting members on the board. Non-voting members will be afforded the privileges and rights given to voting members with the exception of voting privileges. Non-voting members shall be given priority consideration for the positions on the Planning Commission as positions become available given that they meet the criteria as set forth in (1.A.1) of this section.
 - b. In addition to meeting the conditions as set forth above, applicants applying for these positions must also be pre-approved by a majority vote of the existing Planning Commission members.
 - 3) It is the policy of the City of Molalla that involving youth in the public-decisions-making process provides the opportunity to enhance the community’s interest in this process for generations to come. Accordingly, the Planning Commission may also have up to two (2) additional non-voting members of high-school age, who must live within the Molalla River School District.
 - a. A youth applicant must be sixteen (16) years of age or older.
 - b. Meetings may go late into the evening. Students under the age of eighteen (18) shall not be allowed to go later than 9 pm on school nights, or 10 pm on nights when there is no school the following day. If Staff believes the frequency of Planning Commission meetings will disrupt the Student’s school work or interfere with the Student’s school schedule, Staff may request the student be absent from certain meetings. Students shall be required to provide proof that their grades are being maintained at a minimum of a “C” average.

- c. Students will be expected to participate fully in discussions.
- 4) Individuals interested in serving on the Planning Commission shall meet the following criteria:
 - a. Reside within the City of Molalla, except as otherwise provided in this section.
 - b. Not more than two (2) members may have the same occupation.
 - c. Must be a citizen of the United States of America.
- 2. The composition of the Planning Commission shall meet the requirements of ORS 227.030.

Commission members shall receive no compensation.

16.04.320 PLANNING COMMISSION – TERMS OF MEMBERS

- 1. Each member of the Planning Commission shall be appointed to a four (4) year term. Any vacancies shall be filled by the City Council for the un-expired portion of the term.
 - A. Unexcused absences from three (3) consecutive regular meetings shall disqualify a member at which time the City Council shall appoint a replacement. Members shall call, mail, or drop-off a letter to staff in order to be excused from regularly scheduled meetings.

16.04.330 PLANNING COMMISSION – QUORUM – RULES OF PROCEDURE

- 1. A majority of the voting Commission shall constitute a quorum. The Commission is authorized to adopt rules of procedure for the conduct of its meetings and hearings, provided such rules do not conflict with State law, City Charter, Ordinances, and the Comprehensive Plan. A copy of such rules shall be filed with the City Recorder and made available for inspection to those appearing before the Planning Commission prior to their appearance.

When exercising the function of the Hearings Officer, the Planning Commission shall follow the rules of the Hearings Officer in performing said function. A majority vote of the Planning Commission members present shall be sufficient for taking any action authorized by ordinance.

16.04.340 PLANNING COMMISSION – MEETINGS - OFFICERS

The Planning Commission shall meet on a monthly basis . At the first meeting of each calendar year, the Commission shall select a Chair, Vice Chair, and a Secretary. The Chair, or Vice Chair in the Chair's absence, shall preside over the Planning Commission's meetings and hearings.

16.04.350 PLANNING COMMISSION – RECORD OF PROCEEDINGS

A verbatim record of the proceedings shall be made by written, mechanical or electronic means, which need not be transcribed, except upon review on the record.

16.04.360 PLANNING COMMISSION – RIGHT OF PARTIES TO PRESENT EVIDENCE AT HEARINGS

1. At public hearings before the Planning Commission, all interested persons and organizations shall be allowed an opportunity to be heard and to present and rebut evidence.
2. The Chair may limit the speaking time allowed for interested parties to five (5) minutes.

16.04.400 DESIGN REVIEW BOARD CREATION

The Planning Commission shall act as the City’s Design Review Board. All rules and regulations established in the Planning Commission Rules shall apply to Design Review Board meetings.

16.04.410 DESIGN REVIEW BOARD TIME OF MEETINGS

Meetings shall be scheduled on an as needed basis. At a minimum, the Design Review Board shall hold at least one (1) meeting every six (6) months as a training session on the Design Review Code

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16.06.010 PURPOSE

1. This chapter provides the procedures by which the City of Molalla reviews and makes land use decisions regarding the use of land subject to the City’s jurisdiction. This chapter is intended to implement the related provisions of ORS Chapters 92, 197 and 227.

16.06.050 OBJECTIVES

1. These procedures include all forms of land use decisions, including land divisions, limited land decisions, expedited land divisions, permit decisions, legislative enactments, amendments to the Molalla Comprehensive Plan, and Titles 16 through 21 of the City of Molalla Municipal Code.
2. Pursuant to ORS 227.175, a applicant may elect to consolidate applications for two (2) or more related permits required for a single development project.

16.06.100 THE CITY’S DECISION-MAKING PROCESS

1. A person or organization may not engage in any development within the City of Molalla without first having obtained a land use permit as required in the MMC Titles 17 and 18.
2. A building permit may not be issued for development within the City of Molalla unless a land use permit has first been obtained as required in the MMC Titles 17 and 18.
3. The following decision-making process chart shall control the City's review of the indicated permits:

**TABLE 1
APPROVAL PROCESS FOR LAND USE PERMIT**

PERMIT TYPE	TYPE I	TYPE II	TYPE III	TYPE IV	ELD	DESIGN REVIEW BOARD
Code interpretation 16.06.750 / Similar use determination 16.06.810		PD				
Revocation 16.06.820				PC-CC		
Subdivision Preliminary Plat Under 25 Lots 17.12			PC			
Subdivision Preliminary Plat 25 Lots or More 17.12				PC-CC		
Final Plat – Sub division 17.40	PD					
Partition 17.20	PD					
Property Line Adjustment 17.30	PD					
Design Review 18.38 Type I, II, and III	PD					
Design Review 18.38 Type IV						DRB
Design Review 18.38 Development in C-1, R-1, R-5, and CPA	PD					
Conditional Use Permit 18.82			HO			
Temporary Use 18.84		PD				
Non-Conforming Use – 18.86		PD				
Variance – 18.88 Type A		PD				
Variance – 18.88 Type B			HO			
Zone Change – 19.92				PC-CC		
Plan Amendments 19.92.100				PC-CC		
Annexations – 19.94				PC-CC		

PD – PLANNING DIRECTOR **PC** – PLANNING COMMISSION **HO** – HEARINGS OFFICER **CC** – CITY COUNCIL **DRB** – DESIGN REVIEW BOARD **ELD** – EXPEDITED LAND DIVISION

16.06.110 TYPE I DECISIONS

1. Type I decisions require minimal interpretation or the exercise of policy or legal judgment in evaluating approval criteria.
2. Notice of a Type I application shall comply with MCC 16.06.410.
3. Notice shall also be posted and placed in a public location such as the Planning Department.

4. The Planning Director's decision may be appealed to the Planning Commission.

16.06.120 TYPE II DECISIONS

1. Type II decisions involve the exercise of limited interpretation and discretion in evaluating approval criteria.
2. Notice of a Type II application shall comply with MMC 16.06.420.
3. The Planning Director will accept comments for fourteen (14) days after the application is determined to be complete.
4. The Planning Directors' decision may be appealed to the Planning Commission by any party who submitted comments during the 14-day period.
5. The Planning Commission's decision is the City's final decision and may be appealed to the Land Use Board of Appeals (LUBA) within twenty-one (21) days of the date the decision becomes final.

16.06.130 TYPE III DECISIONS

1. Type III decisions involve the exercise of discretion and the evaluation of subjective approval standards and are therefore decided by either a Hearings Officer or the Planning Commission as provided in MMC 16.06.430.
2. Notice of the application shall be as provided in MMC 16.06.430.
3. Notice of the initial public hearing must be issued at least twenty (20) days prior to the hearing. A staff report must be available at least seven (7) days prior to the hearing.
4. All issues shall be addressed at the public hearing held before the Hearings Officer or Planning Commission.
5. The Hearings Officer's or Planning Commission's decisions may be appealed by the applicant and the party or parties with standing to the Planning Commission or to City Council if the Planning Commission performed the original review.
6. Decisions made by either the Planning Commission or City Council are the City's final decision and are appealable to LUBA within twenty-one days of the date the decision becomes final.

16.06.140 TYPE IV DECISIONS

1. Type IV decisions include zone changes and plan amendments (both quasi-judicial and legislative), and certain development application.

2. These applications involve the greatest amount of discretion and evaluation of subjective approval standards.
3. Notice of the application shall be as provided in MMC 16.06.430.
4. Notice of the initial public hearing must be issued at least twenty (20) days prior to the hearing. The staff report must be available at least seven (7) days prior to the hearing.
5. All issues shall be addressed at a public hearing before the Planning Commission.
6. Unless the City Council votes to review the decision de novo, any review by the City Council is on the record and only those issues raised before the Planning Commission may be brought before the City Council.
7. The City Council's decision is the City's final decision and may be appealed to LUBA within twenty-one (21) days of the date the decision becomes final.

16.06.150 TYPE V DECISIONS

1. Type V decisions include subdivision applications which contain greater than twenty-five (25) lots.
2. Notice of the application shall be as provided in MMC 16.06.430.
3. Notice of the initial public hearing must be issued at least twenty (20) days prior to the hearing. The staff report must be available at least seven (7) days prior to the hearing.
4. All issues shall be addressed at a public hearing before the Planning Commission.
5. Unless the City Council votes to review the decision de novo, any review by the City Council is on the record and only those issues raised before the Planning Commission may be brought before the City Council.
6. The City Council's decision is the City's final decision and may be appealed to LUBA within twenty-one (21) days of the date the decision becomes final.

16.06.160 ELD (EXPEDITED LAND DIVISION PROCESS)

1. The Expedited Land Division (ELD) is set forth in ORS 197.360 to 197.380. To qualify for this type of process, the development must meet the basic criteria in ORS 197.360(1) (a) or (b).
2. While the decision making process is controlled by State law, the approval criteria are found in the Molalla Municipal Code.
3. The procedure for processing an ELD application shall be that specified in ORS 197.360 to 197.380.
4. An application for a limited land use decision shall be processed as a Type II application.

16.06.170 CONSOLIDATED PROCEDURE

1. An application that involves two (2) or more procedures may be processed collectively under the highest numbered procedure required for any part of the application or processed individually under each of the procedures identified in the code.
2. The applicant may determine whether the application shall be processed collectively or individually.
3. If the application is processed under the individual procedure option, the highest numbered type procedure must be processed prior to the subsequent lower numbered procedure unless otherwise determined by the Planning Director.
4. If the application is processed collectively with two (2) or more of the same highest numbered procedures but assigned to different hearing bodies, only the highest hearing body shall hear the application.
5. The City Council is the highest hearing body, followed by the Planning Commission, the Hearings Officer, and finally the Planning Director.

16.06.180 NON-LAND USE DECISION

Decisions that are made under standards that do not require interpretation or the exercise of policy or legal judgment are not land use decisions subject to Chapters 16 through 21 of this Code. Examples of non-land use decisions include building permits and review of final subdivision or partition plats.

16.06.200 PRE-APPLICATION CONFERENCE

1. The purpose of the pre-application conference is to provide City staff with a summary of the applicant's development proposal as well as an opportunity for staff to provide the applicant with information on likely impacts, limitations, requirements, approval standards, fees and other information that may affect the proposal.
2. Prior to submitting an application:
 - A. The applicant shall schedule and attend a pre-application conference with City staff to discuss the proposal. The City Council shall set the pre-application conference fee by resolution.
 - B. The Planning Director may waive the pre-application requirements if, in the Planning Director's opinion, the development does not warrant a pre-application conference.
3. Pre-application Conference:
 - A. To schedule a pre-application conference, the applicant shall contact the Planning Director, submit the required materials, and pay the appropriate fee.

- B. At a minimum, an applicant shall submit a short narrative and site plan (drawn to a scale acceptable to the Planning Director) describing the proposal and identifying proposed land uses, traffic circulation, and public rights-of-way. A completed Design Review worksheet shall also accompany the application.
 - C. The Planning Director shall provide, by first class mail, the applicant with a written summary of the pre-application conference.
 - D. During the pre-application conference, City staff is not authorized to waive any requirement of this Code. Any omission or failure by staff to recite to an applicant all relevant applicable land use requirements shall not constitute a waiver by the City of any standard or requirement.
4. A pre-application conference shall be valid for a period of six (6) months from the date held. If an application is not filed within six (6) months of the pre-application conference, the applicant must schedule and attend another pre-application meeting before the City will accept a permit application.
 5. A pre-application meeting may not occur less than fifteen (15) days prior to submitting an application. The applicant shall be required to pay the appropriate fee. If the fee is unknown, staff may estimate and require additional payment or make a refund when that fee becomes known.

16.06.210 APPLICATION REQUIREMENTS

1. A permit application may be initiated only by the record property owner, contract purchaser (or a representative of the owner or purchaser), the City Manager or designee.
2. Where there is more than one (1) record owner, the City will not accept an application without signed authorization from all record owners.
3. All permit applications must be submitted on the form provided by the City accompanied by the appropriate fee and all necessary supporting documentation and information sufficient to demonstrate compliance with applicable approval criteria.
4. The applicant has the burden of demonstrating, with evidence that all applicable approval criteria are, or can be, met.

16.06.300 COMPLETENESS REVIEW AND 120-DAY RULE

1. Upon submission, the Planning Director shall date stamp the application form and verify that the appropriate application fee has been submitted.
 - A. The Planning Director will then review the application and accompanying information to evaluate whether the application is complete.

- B. Within thirty (30) days of receipt of the application, the Planning Director shall complete the initial review and issue to the applicant a written statement indicating whether the application is complete. If the application is incomplete, the Planning Director will indicate the information that must be submitted to make the application complete.
2. Upon receipt of a letter indicating the application is incomplete, the applicant has 180 days within which to submit the missing information or the application shall be rejected and all materials and the unused portion of the application fee shall be returned to the applicant.
 - A. If the applicant submits the requested information within the 180-day period, the Planning Director shall again verify whether the application, as submitted and supplemented, is complete.
 - B. Each such review and verification shall follow the procedure in subsection (1B) of this section.
3. Once the Planning Director determines the application is complete, or the applicant refuses to submit any more information, the City shall declare the application complete and take final action on the application within 120 days of that date unless the applicant waives or extends the 120-day period.
4. The 120 day period does not apply in the following situations:
 - A. Any hearing continuance or other process delay requested by the applicant shall be deemed an extension or waiver of the 120-day period.
 - B. Any delay due to an incomplete set of mailing labels for the record property owners entitled to notice.
 - C. An application for a permit that is not wholly within the City's authority and control.
 - D. An application for an amendment to the City's Comprehensive Plan or land use regulations or an application for a permit, the approval of which depends upon a plan amendment.
5. The approval standards that control the City's' review and decision on a complete application are the standards that were in effect on the date the application was first submitted.

16.06.350 COMPLETE APPLICATION – REQUIRED INFORMATION

1. Unless stated elsewhere in Titles 16 through 21, a complete application includes all the materials listed in this section.
2. The Planning Director may waive the submission of any of these materials if not deemed applicable to the specific review sought.
3. The Planning Director may, within thirty (30) days of when the application is first submitted, require additional information, beyond that listed in this section or elsewhere in Titles 16 through 21, such as a traffic study or other report prepared by an appropriate expert.

4. The applicant is responsible for the completeness and accuracy of the application and all of the supporting documentation. The City will not deem the application complete until all information required by the Planning Director has been submitted.
5. At a minimum, the applicant must submit the following:
 - A. One (1) copy of a completed City application and including the following information:
 - 1) An accurate legal description, tax account number(s), map and location of all properties that are the subject of the application;
 - 2) Name, address, telephone number and authorization signature of all record property owners or contract owners, and the name, address and telephone number of the applicant, if different from the property owner(s).
 - 3) Proof of ownership of the property to the Planning Directors satisfaction;
 - B. A complete list of the permit approvals sought by the applicant, including:
 - 1) A complete and detailed narrative description of the proposed development that describes existing site conditions, existing buildings, public facilities and services, presence of wetlands, steep slopes and other natural features;
 - 2) Discussion of the approval criteria for all permits required for approval of the development proposal that explains how the criteria are or can be met.
 - C. The identity and contact person for any affected City-recognized Neighborhood Association.
 - D. Any other information indicated by staff at the pre-application conference as being required.
 - E. A site plan, including:
 - 1) The applicant shall submit with the application a site plan showing the following:
 - a) All building locations with overhangs and critical dimensions;
 - b) Vehicle circulation;
 - c) Parking areas;
 - d) Landscaped areas;
 - e) Walkways;
 - f) Elevation contours;
 - g) Utility lines;
 - h) Adjacent streets and rights-of-way;
 - i) Location of additional rights-of-way dedication to improve that portion of the street.

- 2) At least one copy of the site plan and all related drawings shall be in a readable/legible 8½ by 11 inch format for inclusion into the City's bound record of the application.
- F. A copy of all drawings on overhead transparency and/or PDF format, whichever the Planning Director deems necessary.
- G. Mailing labels:
- 1) The applicant shall submit five (5) sets of mailing labels in a format specified by the Planning Director, for notice to all parties entitled under MMC section 16.06.400 to receive mailed notice of the application.
 - 2) The applicant shall use the names and addresses of property owners within the notice area indicated on the most recent property tax rolls.
- H. All required application fees.
- I. Park requirements as set out in MMC section 17.60.700 shall be addressed for all applications other than industrial development.

16.06.400 PUBLIC NOTICES

All public notices issued by the City regarding a land use matter, announcing applications or public hearings of quasi-judicial or legislative actions shall comply with the requirements of MMC sections 16.06.350 -16.06.450.

16.06.410 TYPE I LAND USE NOTICE PROCEDURE

1. Notice of a Type I application shall be posted in two (2) public spaces for fifteen (15) days.
2. The property shall be posted pursuant to section 16.06.350.

16.06.420 TYPE II LAND USE NOTICE PROCEDURES

1. Notice of Type II applications:
 - A. Once the Planning Director has deemed a Type II application complete, the City shall prepare and send notice of the application, by first class mail, to all record owners of property within 250 feet of the subject property as well as to any City recognized neighborhood association whose territory includes the subject property.
 - B. The applicant is responsible for providing five (5) accurate and complete sets of mailing labels for these property owners and neighborhood associations in accordance with MMC section 16.06.350.

- C. Posting the subject property with the City prepared notice shall comply with MMC section 16.06.350.
- D. At least twenty (20) days prior to the initial evidentiary hearing, notice shall be sent to affected governmental entities, special districts, providers of urban services, Oregon Department of Transportation, any affected recognized neighborhood associations and to any party who has requested in writing such a notice.
- E. The notice shall:
 - 1) Explain the nature of the application and the proposed use or uses which could be authorized;
 - 2) List the applicable criteria from the MMC and the plans that apply to the application;
 - 3) Set forth the street address or other easily understood geographical reference to the subject property;
 - 4) State the date, time and location of the hearing;
 - 5) State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal to the LUBA based on that issue;
 - 6) Include the name of a local government representative to contact and the telephone number where additional information may be obtained;
 - 7) State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost;
 - 8) State that a copy of the staff report will be available for inspection at no cost at least seven (7) days prior to the hearing and will be provided at reasonable cost;
 - 9) Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.

16.06.430 TYPE III & IV LAND USE NOTICE PROCEDURES

- 1. Notice of public hearing on a Type III or IV quasi-judicial application
 - A. Notice for all public hearings concerning a Type III or IV quasi-judicial application shall conform to the requirements of this section.
 - B. At least twenty (20) days prior to the initial public hearing, the City shall prepare and send, by first class mail, notice of the hearing to all record owners of property within 250 feet of the subject property and to any City recognized Neighborhood Association whose territory includes the subject property.

- C. At least twenty (20) days prior to the initial evidentiary hearing, notice shall be sent to affected governmental entities, special districts, providers of urban services, Oregon Department of Transportation, affected recognized neighborhood associations and any party who has requested in writing such notice.
 - D. The City shall publish the notice in a newspaper of general circulation within the City at least twenty (20) days prior to the hearing.
 - E. The applicant is responsible for providing five (5) accurate and complete sets of mailing labels for these property owners and neighborhood associations in accordance with MMC section 16.06.350.
 - F. Posting the subject property with the City prepared notice shall be in accordance with MMC section 16.06.350.
 - G. Notice of the application hearing shall include the following information:
 - 1) Explain and list the nature of the application and the proposed use or uses that may be authorized;
 - 2) Set forth the street addresses or other easily understood geographical reference to the subject property;
 - 3) State the date, time and location of the hearing;
 - 4) State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal to the LUBA based on that issue;
 - 5) Include the name of a local government representative to contact and the telephone number where additional information may be obtained;
 - 6) State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost;
 - 7) State that a copy of the staff report will be available for inspection at no cost at least seven (7) days prior to the hearing. Copies shall be provided at a reasonable cost upon request;
 - 8) Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.
 - H. For Type IV applications, notice of a hearing before the City Council shall be sent to all parties who participated in the hearing before the Planning Commission. Such notice shall be sent to the participants when notice of the Planning Commissions decision is forwarded to the City Council.
3. Notice of public hearing on a legislative proposal.

- A. At least forty-five (45) days prior to the first evidentiary hearing on a legislative proposal, a copy of the proposal shall be forwarded to the Planning Director of the Department of Land Conservation and Development (DLCD).
- B. At least twenty (20) days prior to a public hearing at which a legislative proposal to amend or adopt the City's land use regulations or Comprehensive Plan is to be considered, the Planning Director shall issue a public notice that conforms to the requirements of this subsection.
- C. At least twenty (20) days prior to the hearing, notice shall be sent to affected governmental entities, special districts, providers of urban services, Oregon Department of Transportation, any affected recognized neighborhood associations and any party who have requested in writing such notice, and shall be published in a newspaper of general circulation within the City. Notice shall include the following information:
 - 1) A description of the proposal in sufficient detail for people to determine the nature of the change being proposed, including a description of the geographic range, area or location of the land that will be affected by the proposal.
 - 2) The time, date and location of the public hearing.
 - 3) The City assigned planning file number and title of the proposal.
 - 4) A statement that any interested party may testify at the hearing or submit written comments on the proposal at or prior to the hearing.
 - 5) A statement that all comments sent by facsimile or e-mail must be sent and addressed to the City's Planning staff no later than 12:00 noon the day of the hearing in order to be considered timely filed.
 - 6) Include the name and telephone number of the Planning staff responsible for the proposal as well as the point of contact for further information.
 - 7) A statement that failure of any person entitled to notice under this subsection to receive notice shall not invalidate the action, provided that the City can demonstrate by an affidavit of mailing certifying that such notice was mailed.
- D. If the legislative proposal involves a rezone or a change that limits or prohibits land uses previously allowed in the affected zone, individual notice shall be mailed in accordance with ORS 227.186.

16.06.440 DESIGN REVIEW BOARD NOTICE PROCEDURE

- 1. Notice of public hearing on an application before the Design Review Board.
 - A. Notice for all public hearings concerning the Design Review Board shall conform to the requirements of this subsection.

- B. At least twenty (20) days prior to the initial evidentiary hearing, the City shall prepare and send, by first class mail, notice of the hearing to all record owners of property within 250 feet of the subject property and to any City-recognized neighborhood association whose territory includes the subject property.
- C. At least twenty (20) days prior to the hearing, notice shall be sent to affected governmental entities, special districts, urban service providers, and Oregon Department of Transportation.
- D. The City shall also publish the notice in a newspaper of general circulation within the City at least twenty (20) days prior to the hearing.
- E. The applicant is responsible for providing five (5) accurate and complete sets of mailing labels for these property owners and neighborhood associations in accordance with MMC section 16.06.350.
- F. Posting the subject property with the City prepared notice shall be in accordance with MMC section 16.06.350.
- G. Notice of the application hearing shall include the following information:
 - 1) Explain the nature of the application and the proposed use or uses, which could be authorized;
 - 2) List the applicable criteria from the ordinance and the plan that apply to the application at issue;
 - 3) Set forth the street address or other easily understood geographical reference to the subject property;
 - 4) State the date, time and location of the hearing before the Design Review Board;
 - 5) State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue, precludes appeal to the LUBA based on that issue;
 - 6) Include the name of a local government representative to contact and the telephone number where additional information may be obtained;
 - 7) State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost;
 - 8) State that a copy of the staff report will be available for inspection at no cost at least seven (7) days prior to the hearing and will be provided at reasonable cost;
 - 9) Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.

16.06.450 NOTICE POSTING REQUIREMENTS

1. Where this chapter requires notice of a pending or proposed permit application or hearing to be posted on the subject property, the requirements of this subsection shall apply.
2. City guidance and the applicants responsibility.
 - A. The City shall supply all notices that an applicant is required to post on the subject property, and shall specify the dates the notices are to be posted as well as the earliest date on which they may be removed.
 - B. The City shall also provide a statement, to be signed and returned by the applicant, certifying that the notice(s) were posted at the correct time. If there is any delay in the City's land use process caused by the applicant's failure to correctly post the subject property for the required period of time and in the correct location, the applicant agrees to extend the 120-day period in a timely manner.
3. Number and location of postings.
 - A. The applicant must place the notices on each frontage of the subject property.
 - B. If a property's frontage exceeds 600 feet, the applicant shall post one copy of the notice for each 600 feet or fraction thereof.
 - C. In the case a property's size and dimension does not meet the requirements above, the Planning Director may require additional notices to be posted.
 - D. The applicant shall remove all signs within ten (10) days following the event announced in the notice.

16.06.500 QUASI-JUDICIAL HEARING PROCESS

1. General requirements
 - A. All public hearings pertaining to quasi-judicial permits, whether before the Hearings Officer, Planning Commission or City Council, shall comply with the procedures of this section.
 - B. All public hearings held pursuant to this chapter shall comply with the Oregon Public Meetings Laws, the applicable provisions of ORS 197.763 and any other applicable law.
2. Once the Planning Director determines that an application for a Type III, IV or Design Review Board decision is complete, and once an appeal of a Planning Director's decision on a Type I or II application has been properly filed under MMC section 16.06.690, the planning department shall schedule a hearing before the appropriate decision maker.
3. Notice of the hearing shall be issued in accordance with the applicable section of MMC 16.06.400.
4. The Planning Director shall prepare a staff report on the application that includes:

- A. The applicable approval criteria;
 - B. A description of the application and the applicant's development proposal;
 - C. Summarizes all relevant City department, agency and public comments;
 - D. A description of all other pertinent facts as they relate to the application and the approval criteria;
 - E. Findings and a recommendation as to whether each of the approval criteria is met.
5. At the beginning of the initial public hearing for any quasi-judicial application a statement describing the following shall be announced to those in attendance:
- A. The hearing will proceed in the following general order: staff report, applicant's presentation, testimony in favor of the application, testimony in opposition to the application, rebuttal, record closes, decision maker deliberation and decision.
 - B. A list of the applicable substantive criteria.
 - C. All testimony, arguments and evidence must be directed toward the applicable substantive criteria, or other criteria in the Comprehensive Plan or Land Use Regulations, which the person believes to apply to the decision.
 - D. If any person believes that other criteria apply in addition to those addressed in the staff report, those criteria must be listed and discussed on the record.
 - E. The decision maker may reasonably limit oral presentations in length or content depending upon time constraints.
 - F. Any party may submit written materials of any length while the public record is open.
 - G. Failure to raise an issue on the record, with sufficient specificity and accompanied by statements or evidence sufficient to afford the City and all parties to respond to the issue, will preclude appeal on that issue to the Land Use Board of Appeals.
 - H. Failure by the applicant to raise constitutional or other issues relating to the proposed conditions of approval, with sufficient specificity to allow the City to respond to the issue, precludes an action for damages in Circuit Court.
 - I. Any party wishing a continuance or to keep open the record must make that request while the record is still open.
 - J. The Hearings Officer or chair shall call for any ex-parte contacts, conflicts of interest or bias before the beginning of each hearing item.

16.06.550 LEGISLATIVE HEARING PROCESS

1. Purpose

- A. Legislative actions involve the adoption or amendment of the City's land use regulations, Comprehensive Plan, map inventories and other policy documents that affect the entire City or large portions of it.
- B. Legislative actions shall be processed pursuant to a Type IV Land Use Procedure.

2. Planning Commission Review

A. Hearing required

- 1) The Planning Commission shall hold at least one (1) public hearing before recommending action on a legislative proposal.
- 2) Any interested person may appear and provide written or oral testimony on the proposal at or prior to the hearing.
- 3) The Planning Director shall notify the Oregon Department of Land Conservation and Development as required by the post acknowledgment procedures of ORS 197.610 to 197.625, as applicable.

- B. Staff Report - Once the Planning Commission's hearing has been scheduled and noticed in accordance with MMC section 16.06.430 and any other applicable laws, the staff shall prepare and make available a report on the legislative proposal at least seven (7) days prior to the hearing.

C. Planning Commission Recommendation

- 1) At the conclusion of the hearing, the Planning Commission shall adopt a recommendation.
- 2) The Planning Commission shall prepare and forward to the City Council a report and its recommendation on the application.

3. City Council Review

- A. Upon a recommendation from the Planning Commission on a legislative action, the City Council shall hold at least one (1) public hearing on the proposal.
- B. Any interested person may provide written or oral testimony on the proposal at or prior to the hearing.
- C. At the conclusion of the hearing, the City Council may adopt, modify or reject the legislative proposal, or it may remand the matter to the Planning Commission for further consideration.
- D. If the decision is to adopt at least some form of the proposal, and thereby amend the City's land use regulations, Comprehensive Plan, official zoning maps or some component of any of these documents, the City Council's decision shall be enacted as an ordinance.

- E. Not later than five (5) days following the City Council’s final decision, the Planning Director shall send by first class mail notice of the decision to Department of Land Conservation and Development.

16.06.600 REQUESTS FOR CONTINUANCES AND TO KEEP THE RECORD OPEN

1. Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence, arguments or testimony regarding the application. The hearings authority shall grant such request by continuing the public hearing or leaving the record open for additional written evidence, arguments or testimony.
2. If the hearings authority grants a continuance, the hearing shall be continued to a date, time and place certain at least seven (7) days from the date of the initial evidentiary hearing. An opportunity shall be provided at the continued hearing for persons to present and rebut new evidence, arguments or testimony. If new written evidence is submitted at the continued hearing, any person may request, prior to the conclusion of the continued hearing, that the record be left open for at least seven (7) days to submit additional written evidence, arguments or testimony for the purpose of responding to the new written evidence.
3. If the hearings authority leaves the record open for additional written evidence, arguments or testimony, the record shall be left open for at least seven (7) days. Any participant may file a written request with the City for an opportunity to respond to new evidence submitted during the period the record was left open. If such a request is filed, the hearings authority shall reopen the record for a specified period.
4. A continuance or extension granted pursuant to this section shall be subject to the limitations of ORS 227.178 (120-day rule), unless the continuance or extension is requested or agreed to by the applicant.
5. Unless waived by the applicant, the City shall allow the applicant at least seven (7) days after the record is closed to all other parties to submit final written arguments in support of the application. The applicant’s final submittal shall be considered part of the record, but shall not include any new evidence. This seven (7) day period is not subject to the limitations of ORS 227.178 (120-day rule).
6. When a hearings authority reopens a record to admit new evidence, arguments or testimony, any person may raise new issues, which relate to the new evidence, arguments, testimony or criteria for decision-making, which apply to the matter at issue.
7. New notice of a continued hearing need not be given so long as the decision maker establishes a certain time and location for the continued hearing.
8. A continuance requested by the applicant will be considered an extension of the 120-day rule for such a period as it is continued.

16.06.650 CONDITIONS OF APPROVAL AND NOTICE OF DECISION

1. The Hearings Officer, Design Review Board, Planning Commission and City Council may impose reasonable conditions of approval designed to ensure that all applicable approval standards are, or can be, met.
2. Failure to comply with any condition of approval shall be grounds for revocation of the permit(s) and grounds for instituting code enforcement proceedings pursuant to 16.06.980 of this Code and ORS 30.315.
3. Notice of decision
 - A. The City shall send, by first class mail, a notice of all decisions rendered under this Chapter to all persons with standing; *i.e.*, the applicant, all others who participated either orally or in writing before the close of the public record and those who specifically requested notice of the decision.
 - B. The notice of decision shall include the following information:
 - 1) The file number and date of decision;
 - 2) The name of the applicant, owner and appellant (if different);
 - 3) The street address or other easily understood location of the subject property;
 - 4) A brief summary of the decision, and if an approval, a description of the permit approved;
 - 5) A statement that the decision is final unless appealed, and a description of the requirements for perfecting an appeal;
 - 6) The contact person, address and a telephone number whereby a copy of the final decision may be inspected or copies obtained.
4. Modification of approved applications
 - A. The Planning Director may approve a modification of an approved application only if the proposed modification:
 - 1) Is consistent with the prior approval.
 - 2) Is consistent with all ordinance provisions in effect at the time of the modification; and, does not result in any of the following:
 - a) A change in the category of use (*e.g.*, commercial, industrial, etc.);
 - b) An increase greater than 5% of the original approved building floor area, or an increase in the overall lot coverage exceeding 5% of the original approved plan;
 - c) An increase in the density of development (residential or recreational uses), or intensity of use, as demonstrated by a change in occupancy rating requiring substantial modifications to structures;

- d) Any discernible increase in traffic congestion or use of public facilities;
 - e) A reduction in approved open space;
 - f) A reduction of off-street parking and loading spaces;
 - g) A reduction in required pavement widths or a change in major access locations, except as required by the City.
- B. All other requests to modify an approved application shall be processed in the same manner as the original application and are subject to the same standards as the original application.
- C. The City may, in its sole discretion, consider a modification request and limit review of the approval criteria to those issues or aspects of the application that are proposed to be changed from what was originally approved.

16.06.700 EX PARTE CONTACT, CONFLICT OF INTEREST AND BIAS

The following rules govern any challenges to a decision maker's participation in a quasi-judicial or legislative action.

1. Ex parte contacts

- A. Any information obtained by a decision maker outside the context of a quasi-judicial hearing shall be deemed an ex parte contact.
- B. Prior to the close of the record in any particular matter, any decision maker that has obtained any material factual information through an ex parte contact shall declare the content of that contact and allow any interested party to rebut the substance of that contact.
- C. This rule does not apply to legislative proceedings.

2. Conflict of interest

- A. Whenever a decision maker, a member of a decision maker's immediate family or household, or a business in which the decision maker has an ownership interest, has a financial interest in the outcome of a particular quasi-judicial or legislative matter, that decision maker shall not participate in the deliberation or decision on that matter.

3. Bias

- A. All decisions in quasi-judicial matters shall be fair, impartial and based on the applicable approval standards and the evidence in the record.
- B. Any decision maker who is unable to render a fair and impartial decision based on the applicable approval standards and the evidence in the record shall refrain from participating in the deliberation and decision.
- C. This rule does not apply to legislative proceedings.

16.06.710 OBJECTIONS TO PROCEDURE

1. Any person who objects to the procedure followed in any particular matter, including bias, conflict of interest and undisclosed ex parte contacts, must make a procedural objection prior to the City rendering a final decision.
2. Procedural objections may be raised at any time prior to a final decision, after which they are deemed waived.
3. In making a procedural objection, the objecting party must identify the procedural requirement that was not properly followed and identify how the alleged procedural error harmed that person's substantial rights.

16.06.720 EXPIRATION OF AN APPROVAL

1. Unless otherwise stated in an approval decision, all quasi-judicial permit approvals, except for zoning map or Comprehensive Plan map amendments, automatically become void if any of the following events occur:
 - A. Within one (1) year of the date of the final decision, a building permit has not been issued;
 - B. Within one (1) year of the date of the final decision, the activity approved in the permit has not commenced or, in situations involving only the creation of lots or parcels, the land division has not been approved by the Planning Director and recorded.
 - C. The applicant or the applicant's successor in interest fails to comply with one or more conditions of approval.
2. Expiration of an approval shall require a new application for any use on the subject property that is not otherwise allowed outright.
3. Deferral of the expiration period due to appeals.
 - A. If a permit decision is appealed beyond the jurisdiction of the City, the expiration period shall not begin until review before the Land Use Board of Appeals and the Appellate Courts have been completed, including any remand proceedings before the City.
 - B. The expiration period provided for in this section will begin to run on the date of final disposition of the case (the date when an appeal may no longer be filed).

16.06.730 EXTENSION OF AN APPROVAL

1. Planning Director's extension.
 - A. Prior to the expiration of an approved permit, the Planning Director may extend the permit for a period of six (6) months up to an aggregate period of one (1) year, provided there has been substantial implementation of the permit.

- B. A request for an extension shall be reviewed and decided upon by the Planning Director as a Type II decision.
2. Substantial implementation of a permit shall require at a minimum, for each six (6) month extension, demonstrable evidence in a written application showing:
- A. The permit holder has applied for all necessary additional approvals or permits required as a condition of the land use or limited land use permit.
 - B. Further commencement of the development authorized by the permit could not practicably have occurred for reasons beyond the reasonable control of the permit holder.
 - C. The request for an extension is not sought for purposes of avoiding any responsibility imposed by this Code, the permit, or any condition thereunder.
 - D. There have been no changes in circumstances or the law likely to necessitate significant modifications to the development approval or conditions of approval.

16.06.740 RE-APPLICATION LIMITED

If an application is denied following the close of the public hearing, no reapplication for the same or substantially similar proposal may be made for one (1) year following the date of final decision denying the permit.

16.06.750 INTERPRETATION

- 1. Where provision of MMC titles 16 through 21 conflict with another City ordinance or requirement, the provision or requirement that is more restrictive or specific shall control.
- 2. Questions of interpretation or applicability to specific properties of any provision of MMC titles 16 through 21 shall be presented to the Planning Director and decided pursuant to a Type II procedure.

16.06.800 CONFORMITY OF PERMITS

The City shall not accept any application for a permit, certificate or other approval, including building permit applications, for any property that is not in full compliance with all applicable provisions of MMC titles 16 through 21 and any permit approvals previously issued by the City. This provision shall not apply to permits, certificates, or other approval sought in order to correct violations of the provisions of MMC titles 16 through 21.

16.06.810 AUTHORIZATION OF SIMILAR USES

1. A use not specifically listed in the allowed uses of a district, may nonetheless be allowed if it is deemed similar in nature and impact to the uses allowed in the applicable zone. Applications for similar use determinations shall be processed pursuant to a Type II procedure.
 - A. Any similar use so authorized must be similar to, or of the same type as, the uses allowed in the underlying district.
 - B. This section does not allow the authorization of a use that is allowed in a different zone.

16.06.820 REVOCATION OF A PREVIOUSLY APPROVED PERMIT

1. In the event an applicant, or the applicant's successor in interest, fails to fully comply with all conditions of permit approval or otherwise does not comply fully with the City's approval, the City may institute a revocation or modification proceeding under this section.
2. All quasi-judicial permits may be revoked or modified if the Planning Commission determines a substantial likelihood that any of the following situations exists:
 - A. One or more conditions of the approval have not been implemented or have been violated;
 - B. The activities of the use, or the use itself, are substantially different from what was approved;
 - C. The use is subject to the nonconforming use regulations, if the applicant has not obtained approval, and has substantially changed its activities or substantially increased the intensity of its operations since the use became nonconforming.
3. Revocation or modification shall be processed as a Type III decision. The City or any private complaining party shall have the burden of proving, based on substantial evidence in the whole record, that the applicant or the applicant's successor has way violated the permit, applicable approval standards or conditions of approval.
4. Possible Actions at the Revocation Hearing
 - A. The Planning Commission shall not approve a new use or a use that is more intense than originally approved unless the possibility of the change is stated in the public notice.
 - B. Uses or developments that are alleged to have not fulfilled conditions, violate conditions or are inconsistent with the City's approval may be subject to the following actions.
 - 1) The Planning Commission may find that the use or development complies with the conditions of the approval. In this case, the use or development shall be allowed to continue.
 - 2) The Planning Commission may modify the approval if it finds that the use or development does not fully comply with the conditions of approval, that the violations are not substantial enough to warrant revocation, and that the use can comply with the original approval criteria if certain conditions are met. In this case, the Planning Commission may modify the existing conditions, add new conditions to ensure

compliance with the approval criteria, or refer the case to the code compliance officer for enforcement of the existing conditions.

- 3) The Planning Commission may revoke the approval if it finds there are substantial violations of conditions or failure to implement conditions of prior land use decisions, such that the original approval criteria for the use or development are not being met.
5. In the event that the permit approval is revoked, the use or development becomes illegal.
 - A. The use or development shall be terminated within thirty (30) days of the date of the decision maker, unless the decision provides otherwise.
 - B. In the event the decision maker's decision on a revocation request is appealed, the revocation action shall be stayed pending the final outcome of the appeal.

16.06.830 RECONSIDERATION OF A FINAL DECISION

1. A person may seek reconsideration of a final decision as provided in this section.
2. Reconsideration may be warranted where the City's decision indicates the decision maker failed to understand or consider certain relevant facts or misinterpreted the application in some material way.
3. The City must receive any written request for reconsideration within ten (10) days of when the decision in question was rendered and must specifically describe the alleged misunderstanding or misinterpretation.
4. A written request for reconsideration does not stay the effectiveness of the City's final decision, nor does it affect any applicable appeal deadlines to the Land Use Board of Appeals.
5. If a request for reconsideration is granted, the Planning Director shall notify all affected parties that the decision will be reconsidered.
6. If the reconsideration is based upon new evidence or information. All parties with standing shall have the opportunity to review and comment on the new evidence or information.
7. Any request for reconsideration by the applicant shall be deemed a waiver of the 120-day deadline under MMC section 16.06.300.

16.06.840 TRANSFER OF APPROVAL RIGHTS

1. Unless otherwise stated in the City's permit decision, any approval granted under MMC titles 16 through 21 run with the land and are transferred with ownership of the land.
2. Any conditions, time limits or other restrictions imposed with a permit approval shall bind all subsequent owners of the property for which the permit was granted.

16.06.900 PERFORMANCE GUARANTEES

When required by the provisions of the Molalla Municipal Code, the applicant shall file a performance guarantee to ensure the full and faithful performance of all terms of an improvement agreement. The applicant shall ensure completion of all work for which permits are required according to the following:

1. The applicant shall provide a surety bond executed by a surety company authorized to transact business in the State of Oregon, in a form approved by the City Attorney. Alternatively, the applicant may deposit in a trust or other dedicated account an amount described in paragraph 5 below.
2. An agreement between the developer and the City that no building permits for structures within the subdivision will be issued until all improvements have been completed by the applicant and accepted by the City. Such agreement shall be in a form approved by the City Attorney and recorded in the deed records of the county. If the applicant fails to complete all improvements, the City shall estimate the cost of completing any required improvement, call on the bond or deposit for the funds necessary to complete the improvement, and complete the improvement to the extent of the funds obtained upon call of the bond or deposit. If the amount obtained from the bond or deposit is insufficient to complete the improvement, the City may hold either the collected funds until additional funds are authorized for the improvement or expend the collected funds on a revised improvement or on a portion of the improvement as determined reasonable by the Director of Public Works.
3. When conditions of permit approval require the applicant to construct certain improvements, the City may allow the applicant to submit a financial guarantee in lieu of actual construction of the improvement.
4. Form of guarantee
 - A. Guarantees shall be in a form approved by the City Attorney, including an irrevocable stand-by letter of credit issued by a recognized lending institution to the benefit of the City, a certified check, dedicated bank account or allocation of a construction loan held in reserve by the lending institution for the benefit of the City.
 - B. The guarantee shall be filed with the City Recorder after approval by the Planning Director, Director of Public Works, and any other agency that has review.
5. Amount of Guarantee
 - A. The amount of the performance guarantee shall be equal to at least 110% of that estimated cost of constructing the improvement in question.
 - B. The amount of the performance guarantee may be larger than 110% if deemed necessary by the Planning Director.
 - C. The cost estimate substantiating the amount of the guarantee must be provided by the applicant and supported by either an engineer's or an architect's estimate or written estimates by three contractors with their names and addresses.
 - D. The estimates shall separately itemize all materials, labor, and other costs.

6. Duration of the guarantee
 - A. The guarantee shall remain in effect until the improvement is actually constructed and accepted by the City.
 - B. Once the City has inspected and accepted the improvement, the City shall release the guarantee to the applicant.
 - C. Once constructed and approved by the City, any remaining funds shall be refunded to the applicant.

16.06.905 APPEALS

1. An appeal of a City decision must comply with the requirements of this section.
2. Appeal of a Type I, II, or III decision.
 - A. Notice of Appeal of a Type I, II or III decision must be received in writing by the Planning Director within fourteen (14) days from the date notice of the challenged decision is mailed.
 - B. Late filing of any appeal shall be deemed a jurisdictional defect and will result in the automatic rejection of the appeal.
3. The following must be included as part of the Notice of Appeal:
 - A. The City Planning file number and date the decision to be appealed was rendered;
 - B. The name, mailing address and daytime telephone number for each appellant;
 - C. A statement of how each appellant has an interest in the matter and standing to appeal;
 - D. A statement of the specific grounds for the appeal; and
 - E. The applicable appeal fee.
4. Failure to include the appeal fee within the appeal period is deemed a jurisdictional defect and will result in the automatic rejection of any appeal so filed.
5. Standing to Appeal - The following rules prescribe who has standing to appeal.
 - A. Type I and II decisions
 - 1) Only the applicant and those persons who submitted written comments may appeal the decision.
 - B. Type III decision
 - 1) Only the applicant and those persons who participated either orally or in writing have standing to appeal a Type III decision.

6. For Type III decisions, grounds for appeal are limited to those issues raised either orally or in writing before the close of the public record.
7. Notice of the appeal hearing
 - A. The City shall issue notice of the appeal hearing to all parties who participated either orally or in writing before the close of the public record.
 - B. Notice of the appeal hearing shall contain the following information.
 - 2) The file number and date of the decision being appealed;
 - 3) The time, date and location of the public hearing;
 - 4) The name of the applicant, owner and appellant (if different);
 - 5) The street address or other easily understood location of the subject property;
 - 6) A description of the permit requested and the applicant's development proposal;
 - 7) A brief summary of the decision being appealed and the grounds for appeal listed in the Notice of Appeal;
 - 8) A statement that the appeal of a Type III decision is confined to the issues raised in the Notice of Appeal;
 - 9) A general explanation of the requirements for participation along with the City's hearing procedures;
 - 10) A statement that the failure of an issue to be raised in the hearing, in person, or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes an appeal to Land Use Board of Appeals based on that issue.
8. Appeal hearings shall comply with the procedural requirements of MMC section 16.06.350.

16.06.910 COVENANT WITH THE CITY

1. The City may impose, as a condition of final approval of a quasi-judicial permit, the requirement that the applicant execute a covenant with the City agreeing to comply with all conditions of approval.
2. Any such covenant shall include the following elements:
 - A. An agreement.
 - 1) The applicant shall agree to comply with all applicable code requirements, conditions of approval and any representations made to the City by the applicant or the applicant's agents during the application review process in writing.

- 2) This commitment shall be binding on the applicant and all of the applicant's successors, heirs and assigns.
- B. Revocation.
- 2) If the owner fails to perform under the covenant, the City may immediately institute revocation of the approval or any other enforcement action available under state law or the Molalla Municipal Code.
 - 3) The covenant shall provide for payment of attorney fees and other costs associated with any such enforcement action.
- C. Judicial enforcement - Where the development rights of a site are dependent on the performance of conditions by the owner of another property (such as joint access), the covenants are judicially enforceable by the owner of one site against the owner of another.
3. Adopting the Covenant.
- A. The City Attorney shall approve the form of all covenants. The covenant shall run with the land and shall be placed in the county deed records prior to the issuance of any permits or development activity pursuant to the approval.
 - B. Proof of recording shall be made prior to the issuance of any permits and filed with the planning division.
 - C. Recording shall be at the applicant's expense
 - D. Failure to sign and record the covenant within the prescribed period shall require a new application for any use of the subject property.

16.06.970 FEES

1. The requirements of this section govern the payment, refund and reimbursement of fees.
2. The City may adopt by resolution, and revise from time to time, a schedule of fees for applications and appeals.
3. Unless limited by state law, fees are based upon the City's actual or average cost of processing the application or conducting the appeal process and shall be credited to the general fund of the City.
4. Payment
 - A. All fees are due and payable at the time the application or appeal is submitted.
 - B. An application or appeal will not be accepted without the proper fee being paid.
5. Refunds. Fees will only be refunded as provided in this subsection.

- A. When a fee is paid for an application, which is later found to not be required, the City will refund the fee.
 - B. When an error is made in calculating a fee, overpayments will be refunded; underpayment will be collected from the applicant.
 - C. In the event an applicant withdraws an application, the planning department shall refund the unused portion of the fee. The planning department will deduct from the fee the City's actual costs incurred in processing the application prior to withdrawal.
6. Fee waivers
- A. The Planning Director may waive all or any portion of an application or appeal fee if, in the Director's sole discretion, the Director determines that an application must be resubmitted because of an error made by the City.
 - B. A fee or transcript payment is not required for applications or appeals filed by the City or by a Citizens Advisory Committee.

16.06.980 ENFORCEMENT ACTIONS

1. Any interested person or organization having knowledge of a violation of the Comprehensive Plan and implementing ordinances, may report such violation on the forms provided by the Planning Director.
2. Upon submission of a violation report, the Planning Director or the City Attorney shall investigate the alleged violation and take the appropriate legal action to correct the violation, if violations are found to exist.
3. Violation of Titles 16 through 21 constitutes a nuisance and may be abated by appropriate proceedings.
4. Upon request from the Planning Director or direction by the City Council, the City Attorney, at the City Attorney's discretion, may employ any appropriate legal remedy at law or equity, including criminal prosecution, when applicable, to enforce the provisions of the Comprehensive Plan, zoning, subdivision, land use procedures, and development ordinances, and any other Comprehensive Plan implementing ordinance.
5. No intent, knowledge or other mental element is required to be proven in a prosecution under this chapter.
6. Any person or corporation who violates any provision of MMC titles 16 through 21 shall be subject to a fine of not more than \$1,000.
7. Each day a violation continues or occurs shall be deemed a separate offense.
8. Enforcement remedies not affected by issuance of a development permit.
 - A. The issuance of a development permit shall not preclude the City from later seeking enforcement of any ordinance or Comprehensive Plan violation occurring as a result of the

development permit without regard as to whether such violation could have been discovered prior to the issuance of the permit or expiration of the period for appeal of such permit.

- B. The review of the permit application by the Planning Director is intended to assist the developer in avoiding obvious violations before they occur, and is not intended because of the time restrictions and nature of the materials reviewed, to be a final determination of the compliance with municipal ordinances or the Comprehensive Plan.

Chapter 16.08: Violations

16.08.100 NUISANCE

Any violation of Titles 16, 17, 18, 19, 20 and 21 of this Code shall constitute a nuisance, and the City may in addition to any other remedies, abate the violation under the nuisance abatement procedures of this Code.

16.08.200 FINE

Any person or corporation who violates any provision of this title shall be subject, upon conviction, to a fine of not more than \$1,000.00 per day per occurrence.

16.08.300 EACH DAY'S VIOLATION A SEPARATE OFFENSE

Each day a violation continues or occurs shall be deemed to be a separate offense.

16.08.400 PROSECUTION

No intent, knowledge or other mental element is required to be proven in a prosecution under this chapter.

16.08.900 SEVERABILITY

The provisions of this ordinance are hereby declared severable if any section, sentence, clause, or phrase of this ordinance is adjudged by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. This severability clause shall apply to chapters 16, 17, 18, 19, 20 and 21 of the Molalla Municipal Code.