

Molalla Planning Department

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Staff Recommendation

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Staff suggests the following inclusion/changes to the Code:

1. 18.1.300 (B) new number 13 - "Include, as appropriate, a bikeway, pedestrian walkway or jogging trail."
2. 18.2.200 (G) new number 14 - "Provide buffering or transitions between uses."
3. 18.2.200 (G) new number 15 - "In Industrial Districts encourage outdoor eating areas conveniently located for use by employees."
4. 18.2.200 (G) new number 16 - "Encourage outdoor recreation areas appropriate to serve all the uses within the development."
5. 18.2.500 (D) new number 4 - "In the Employment District periphery fences shall not be allowed within this district. Decorative fences or walls may be used to screen services and loading areas, private patios or courts. Fences may be used to enclose playgrounds, tennis courts, or to secure sensitive areas or uses, including but not limited to, vehicle storage areas, drainage detention facilities, or to separate the development from adjacent properties not within the district. Fences shall not be located where they impede pedestrian or bicycle circulation or between site areas."
6. Add to definitions in Title 16 - Athletic Scoreboards - A large, usually rectangular board in a ballpark, sports arena, or the like, that shows the score of a game or contest.
7. Add to definitions in Title 16 - Water Feature - In landscape architecture and garden design, a water feature any of a full range of fountains, pools, ponds, cascades, waterfalls, and streams. A majority of water features are powered by pumps. Water features can be any size and may be indoor or outdoor.
8. Change all references to bulletin boards to reader boards.
9. In Title 16 under Remodel place the following sub bullets - For purposes of requirements throughout this code valuations shall be based on the assessed value of the building as shown in the most recent tax assessors data information provided to the City of Molalla. A Minor Remodel is a remodel where the valuation of work to be completed equals less than 50% of the tax assessed value (1% to 49%). A major remodel is a remodel where the valuation of work to be completed is 50% or greater of the tax assessed value.
10. In the residential zone add a minimum and maximum front setback requirement. This means that we would require a minimum front setback of 15 feet and maximum of 20 feet. This keeps uniformity throughout residential development. We should allow variances based on neighboring properties. There should be some sort of language stating that this criteria does not apply to flag lots since the front setback often is measured from the public right of way.

11. Make an allowance in the variance criteria where homes throughout the immediate and adjacent area of the proposed house are further back than the maximum (20 feet) then they can adjust the line further back to meet that standard.
12. Create a new section of code 19.5.500 and make Planned Unit Developments as spelled out below:

Planned Unit Developments

19.5.505 Purpose - The purpose of Planned Unit Development Overlay Zones are:

1. Provide a means for property development that is consistent with Molalla's Comprehensive Plan through the application of flexible standards which consider and mitigate for the potential impacts to the city;
2. Provide such added benefits as increased natural areas or open space in the City, alternative building designs, walkable communities, preservation of significant natural resources, aesthetic appeal, and other types of assets that contribute to the larger community in lieu of strict adherence to many of the rules of the Molalla Development Code;
3. Achieve unique neighborhoods (by varying the housing styles through architectural accents, use of open space, innovative transportation facilities) which will retain their character and city benefits, while respecting the characteristics of existing neighborhoods through appropriate buffering and lot size transitioning;
4. Preserve to the greatest extent possible the existing landscape features and amenities (trees, water resources, ravines, etc.) through the use of a planning procedure (site design and analysis, presentation of alternatives, conceptual review, then detailed review) that can relate the type and design of a development to a particular site;
5. Consider the amount of development on a site, within the limits of density requirements, which will balance the interests of the owner, developer, neighbors, and the City; and
6. Provide a means to better relate the built environment to the natural environment through sustainable and innovative building and public facility construction methods and materials.

19.5.510 Purpose

1. Applicable in all zones. The Planned Development designation is an overlay zone applicable to all zones.
 - A. An applicant may elect to develop the project as a planned development, in compliance with the requirements of this chapter, or in the case of a commercial or industrial project an approval authority may apply the provisions of this chapter as a condition of approving any application for the development.
2. Elements of approval process. There are three elements to the Planned Development approval process, as follows:
 - A. The approval of the Planned Development Concept plan;

- B. The approval of a detailed development plan; and
 - C. The approval of the Planned Development Overlay Zone.
3. Decision Making Process
- A. The concept plan shall be processed by means of a Type III (Planning Commission) land use procedure as governed in Title 17.
 - B. The detailed development plan shall be reviewed by a Type III (Planning Commission) land use procedure, as governed by Title 17, to ensure that it is substantially in compliance with the approved concept plan.
 - C. The Planned Development Overlay zone will be applied concurrently with the approval of the detailed plan.
 - D. In the case of an existing Planned Development Overlay Zone, once construction of the detailed plans has been completed, subsequent applications conforming to the detailed plan shall be reviewed under the provisions required in the chapter which apply to the particular land use application.
 - E. If the application involves subdivision of land, the applicant may also apply for preliminary plat approval and the applications shall be heard concurrently with the detailed plan.
4. Concurrent applications for concept plan and detailed plan. In the case of concurrent applications for concept plan and detailed development plan, including subdivision applications, the applicant shall clearly distinguish the concept from the detailed plan. The Planning Commission shall take separate actions on each element of the Planned Development application (i.e. the concept approval must precede the detailed development approval); however each required action may be made at the same hearing.
5. No application shall be made for an area of less than 5 acres in any zone.

19.5.520 Administrative Provisions

1. Time limit on filing of detailed development plan. The concept plan approval expires after 1 year unless an application for detailed development plan and, if applicable, a preliminary plat approval or request for extension is filed. Action on the detailed development plan shall be taken by the Planning Commission by means of a Type III (Planning Commission) procedure, as governed by Title 17.
2. Zoning Map Designation. The Planned Development Overlay Zone application shall be concurrently approved if the detailed development plan is approved by the Planning Commission. The zoning map shall be amended to indicate the approved planned development designation for the subject development site. The approval of the planned development overlay zone shall not expire.
3. Extension. The Planning Director shall, upon written request by the applicant and payment of the required fee grant an extension of the approval period not to exceed one year provided that:

- A. No changes have been made on the original concept development plan as approved by the Planning Commission;
 - B. The applicant can show intent of applying for detailed development plan or preliminary plat review within the one year extension period; and
 - C. There have been no changes to the applicable Comprehensive Plan policies and ordinance provisions on which the approval was based.
4. Phased Development
- A. The Planning Commission shall approve a time schedule for developing a site in phases, but in no case shall the total time period for all phases exceed that required in the land division section of the Molalla Development Code.
 - B. The development and occupancy of any phase shall not be dependent on the use of temporary public facilities. A temporary public facility is any facility not constructed to the applicable City or district standards.
5. Substantial modifications to concept plan. If the Planning Commission finds that the detailed development plan or preliminary plat does not substantially conform to the concept plan, a new concept plan shall be required.
6. Noncompliance. Noncompliance with an approved detailed development plan shall be a violation of this chapter.
7. Issuance of Occupancy Permits. The development shall be completed in accordance with the approved detailed development plan including landscaping and recreation areas before any occupancy permits are issued. However, when the Planning Director determines that immediate execution of any feature of an approved detailed development plan is impractical due to climatic conditions, unavailability of materials, or other temporary conditions, the Planning Director shall, as a precondition of the issuance of a required permit, require the posting of a performance bond or other surety to secure execution of the feature at a time certain not to exceed one year.

19.5.530 Concept Plan Submission Requirements

1. General Submission Requirements. The applicant shall submit an application containing all of the general information required for a Type III (Planning Commission) procedure, as governed by Title 17 and the following:
- A. A statement of planning objectives to be achieved by the Planned Development through the particular approach proposed by the applicant. This statement should include:
 - 1) A description of the character of the proposed development and the rationale behind the assumptions and choices made by the applicant;
 - 2) An explanation of the architectural style, and what innovative site planning principles are utilized including any innovations in building techniques that will be employed; and

- 3) An explanation of how the proposal relates to the purposes of the Planning Development Chapter as expressed in 19.5.505.
 - B. A general development schedule indicating the approximate dates when construction of the Planned Development and its various phases are expected to be initiated and completed.
 - C. A statement of the applicant's intentions with regard to the future selling or leasing of all or portions of the Planned Development. In the case where a residential subdivision is proposed, the statement shall include the applicant's intentions whether the applicant will build the homes, or sell the lots to other builders.
2. Additional Information. In addition to the general information described in Subsection A above, the concept plan, data, and narrative shall include the following information, the detailed content of which can be obtained from the Planning Director.
 - A. Existing site conditions;
 - B. A site concept including the types of proposed land uses and structures, including housing types, and their general arrangement on the site;
 - C. A grading concept;
 - D. A landscape concept indicating a percentage range for the amount of proposed open space and landscaping, and general location and types of proposed open space(s);
 - E. Parking concept;
 - F. A sign concept;
 - G. A streets and utility concept; and
 - H. Structure setback and development standards concept, including the proposed residential density target if applicable.
 3. Allowable Uses
 - A. In Residential Zones. In all residential zones, an applicant with a Planned Development approval may develop the site to contain a mixture of uses subject to the density provisions of the underlying zone and the density bonus provisions of 19.5.560 (1.C.3)). The following uses are allowed with Planned Development Approval:
 - 1) All uses allowed outright in the underlying zoning district;
 - 2) Single-family detached and attached residential units;
 - 3) Duplex Residential Units;
 - 4) Multi-Family Residential Units;
 - 5) Manufactured Homes;

- 6) Accessory services and commercial uses directly serving the planned development only and which are customary or associated with, but clearly incidental to the uses permitted in the zone, such as personal services, preschool, or daycare, and retail uses less than 5,000 square feet in sum total;
 - 7) Community building;
 - 8) Indoor recreation facility; athletic club, fitness center, racquetball court, swimming pool, tennis court or similar use;
 - 9) Equestrian Estates including equestrian stables;
 - 10) Outdoor recreation facility, golf course, golf driving range, swimming pool, tennis court, or similar use; and
 - 11) Recreational vehicle storage area.
- B. In Commercial Zones. In all commercial zones, an applicant with a Planned Development approval may develop the site to contain all of the uses permitted outright in the underlying zone and, in addition, a maximum of 25% of the total gross floor area may be used for multi-family dwellings in those commercial zones that do not list multi-family dwellings as an outright use. Such a use must be located above or behind the central commercial retail.
- C. In Industrial Zones. In all industrial zones, a Planned Development shall contain only those uses allowed outright in the underlying zone.

19.5.540 Concept Plan Approval Criteria

1. The concept plan may be approved by the Planning Commission only if all of the following criteria are met:
 - A. The concept plan includes specific designations on the concept map for areas of open space, and describes their intended level of use, how they relate to other proposed uses on the site, and how they protect natural features of the site.
 - B. The concept plan identifies areas of significant natural resources, if any, and identifies methods for their maximized protection, preservation, and/or management.
 - C. The concept plan identifies how the future development will integrate into the existing neighborhood, either through compatible street layout, architectural style, housing type, or by providing a transition between the existing neighborhood and the project with compatible development or open space buffers.
 - D. The concept plan identifies methods for promoting walk ability or transit ridership, such methods may include separated parking bays, off street walking paths, shorter pedestrian routes than vehicular routes, linkages to or other provisions for bus stops, etc.

- E. The concept plan identifies the proposed uses, and their general arrangement on site. In the case of projects that include a residential component, housing type, unit density, or generalized lot sizes shall be shown in relation to their proposed location on site.
- F. The concept plan must demonstrate that development of the property pursuant to the plan results in development that has significant advantages over a standard development. A concept plan has a significant advantage if it provides development consistent with the general purpose of the zone in which it is located at overall densities consistent with the zone, while protecting natural features or providing additional amenities or features not otherwise available that enhance the development project or the neighborhood.

19.5.550 Detailed Development Plan Submission Requirements

1. General submission requirements. The applicant shall submit an application containing all of the general information required for a Type III Land Use application as well as 19.5.530 (2) and the approval criteria of 19.5.560.
2. Additional Information. In addition to the general information described in Subsection 1 above, the detailed development plan, data and narrative shall include the following information:
 - A. Contour intervals of 2' to 5', depending on slope gradients, and spot elevations at breaks in grade, along drainage channels or swales, and at selected points, as needed.
 - B. A specific development schedule indicating the approximate dates of construction activity, including demolition, tree protection installations, tree removal, ground breaking, grading, public improvements and building construction for each phase.
 - C. A copy of all existing and/or proposed restrictions or covenants.
3. Compliance with specific development standards. The detailed development plan shall show compliance with base zone provisions, with the following modifications:
 - A. Lot Dimensional Standards: The minimum lot depth and lot width standards shall not apply. There shall be no minimum lot size except that lots on the perimeter of the project shall not be less than 80% of the minimum size required in the base zone.
 - B. Site Coverage. The maximum site coverage is 80%, except in R-1 zone where the maximum site coverage shall be 75%. Site coverage includes all buildings and impervious surfaces such as streets and sidewalks;
 - C. Building Height: Any increase in building height in any zone shall follow the conditional use process as outlined in Title 17.
 - D. Structure setback provisions:
 - 1) Setbacks for structures on the perimeter of the project shall be the same as that required by the base zone unless otherwise provided by Section 19.5.550;

- 2) The setback provisions for all setbacks on the interior of the project shall not apply except that:
 - a) All structures shall meet the Uniform Building and Fire Code Requirements;
 - b) A minimum front yard setback of 20 feet is required for any garage structure which opens facing a street. This setback may be reduced for rear or side loaded garages, if specified on the detailed plan and proper clearances for backing movements are accounted for.
 - c) A minimum front yard setback of eight feet is required for any garage opening for an attached single-family dwelling facing a private street as long as the required off-street parking spaces are provided. This setback may be reduced for rear or side loaded garages, if specified on the detailed plan and proper clearances for backing movements are accounted for.
 - 3) If seeking to modify the base zone setbacks, the applicant shall specify the proposed setbacks, either on a lot by lot, or project wide basis. The Planning Commission may require site specific building envelopes.
- E. Other provisions of the base zone. All other provisions of the base zone shall apply except as modified by this chapter.

19.5.560 Detailed Development Plan Approval Criteria

1. Detailed development plan approval criteria. A detailed development plan may be approved only if all the following criteria are met:
 - A. The detailed plan is generally consistent with the concept plan. Minor changes from the concept plan do not make the detailed plan inconsistent with the concept plan unless:
 - 1) The change increases the residential densities, increases the lot coverage by buildings or reduces the amount of parking;
 - 2) The change reduces the amount of open space and landscaping;
 - 3) The change involves a change in use;
 - 4) The change commits land to development which is environmentally sensitive or subject to a potential hazard; and
 - 5) The change involves a major shift in the location of buildings, proposed streets, parking lots, landscaping or other site improvements.
 - B. All the provisions of the land division provisions in Title 19 shall be met if applicable;
 - C. Except as noted, the provisions of the following chapters shall be utilized as guidelines. A planned development need not meet these requirements where a development plan provides alternative designs and methods, if acceptable to the Planning Commission that promotes the purpose of this chapter. In each case, the applicant must provide findings to justify the

modification of the standards in the chapters listed below. The applicant shall respond to all the applicable criteria of each chapter as part of these findings and clearly identify where their proposal is seeking a modification to the strict application of the standards. For those chapters not specifically exempted, the applicant bears the burden of fully complying with those standards, unless a variance has been requested.

- 1) The detailed development plan review is intended to address the same type of issues as the Site Development Review.
- 2) Access, Egress and Circulation. The Planning Commission may grant an exception to the access standards, upon a demonstration by a professional engineer that the resulting access will not be detrimental to the public safety considering emergency vehicle needs, and provisions are provided for all modes of transportation using the site (vehicles, bicycles, pedestrians, and transit).
- 3) Density Computation and Limitations. Unless authorized below, density shall be governed by the density established in the underlying zoning district, using the minimum lot size established for that district. Where a project site encompasses more than one underlying zoning district, density shall be aggregated for each district, and may be allocated anywhere within the project site, as deemed appropriate by the commission. The Planning Commission may further authorize a density bonus not to exceed 10% as an incentive to increase or enhance open space, architectural character and/or site variation incorporated into the development. These factors must make a substantial contribution to objectives of the planned development. The degree of distinctiveness and the desirability of variation achieved shall govern the amount of density increase which the Commission may approve according to the following:
 - a) A 1% bonus for each 5% of the gross site area set aside in open space, up to a maximum of 5%, is allowed for the provision of active use recreational open space, exclusive of areas contained in floodplain, steep slopes, drainageways, or wetlands that would otherwise be precluded from development;
 - b) Up to a maximum of 5% is allowed for the development of pedestrian amenities, streetscape development, recreation areas, plazas, or other Planning Commission approved recreation items.
- 4) Landscaping and Screening. The Commission may grant an exception to the landscape requirements of this title upon a finding that the overall landscape plan was prepared by a licensed landscape architect, provides for 20% of the net site area to be professionally landscaped, and meets the intent of the specific standard being modified.
- 5) Off-street Parking and Loading Requirements. The Planning Commission may grant an exception to the off-street parking dimensional and minimum number of space requirements in the applicable zone if:
 - a) The minimum number of parking spaces is not reduced by more than 10 percent of the required parking; and
 - b) The application is for a use designed for a specific purpose which is intended to be permanent in nature, e.g., a nursing home, and which has a low demand for off-street parking; or

- c) There is an opportunity for sharing parking and there is written evidence that the property owners are willing to enter into a legal agreement; or
 - d) Public transportation is available to the site, and reducing the standards will not adversely affect adjoining uses; or
 - e) There is a community interest in the preservation of particular natural features of the site which make it in the public interest to grant an exception to parking standards.
- 6) Signs. The Planning Commission may grant an exception to the sign dimensional requirements in the applicable zone if:
- a) The sign is not increased by more than 10 percent of the required applicable dimensional standard for signs; and
 - b) The exception is necessary for adequate visibility of the sign on the property; and
 - c) The sign will be compatible with the overall site plan, the structural improvements and with the structures and uses on adjoining properties.
- 7) Visual Clearance Areas. The Planning Commission may grant an exception to the visual clearance requirements, when adequate sight distance is or can be met;
- 8) Street and Utility Improvements. Deviations from street standards shall be made on a limited basis, and nothing in this section shall obligate the City Engineer to grant an exception. The Planning Commission has the authority to reject an exception request. The Planning Commission can only grant an exception to street sanctions if it is sanctioned by the City Engineer. The City Engineer may determine that certain exceptions to the street and utility standards are permissible when it can be shown that:
- I. Public safety will not be compromised; and
 - II. In the case of public streets, maintenance costs will not be greater than with a conforming design; and
 - III. The design will improve stormwater conveyance either by reducing the rate or amount of runoff from present standards or increasing the amount of pollutant treatment.

D. In addition, the following criteria shall be met:

- 1) Relationship to the natural and physical environment:
 - a) The streets, buildings and other site elements shall be designed and located to preserve the existing trees, topography and natural drainage to the greatest degree possible. The Planning Commission may require the applicant to provide an alternate site plan to demonstrate compliance with this criterion;
 - b) Structures located on the site shall not be in areas subject to ground slumping and sliding as demonstrated by the inclusion of a specific geotechnical evaluation; and
 - c) Using the basic site analysis information from the concept plan submittal, the structures shall be oriented with consideration for the sun and wind directions, where possible.

- 2) Buffering, screening and compatibility between adjoining uses:
 - a) Buffering shall be provided between different types of land uses, e.g., between single-family and multi-family residential, and residential and commercial uses;
 - b) In addition to buffer requirements, the requirements of the buffer may be reduced if a landscape plan prepared by a registered Landscape Architect is submitted that attains the same level of buffering and screening with alternate materials or methods. The following factors shall be considered in determining the adequacy and extent of the buffers.
 - I. The purpose of the buffer, for example to decrease noise levels, absorb air pollution, filter dust, or to provide a visual barrier;
 - II. The size of the buffer needs in terms of width and height to achieve the purpose;
 - III. The direction(s) from which buffering is needed;
 - IV. The required density of the buffering; and
 - V. Whether the viewer is stationary or mobile.
 - c) On-site screening from view from adjoining properties of such activities as service areas, storage areas, parking lots and mechanical devices on roof tops shall be provided and the following factors shall be considered in determining the adequacy of the type and extent of the screening:
 - I. What needs to be screened;
 - II. The direction from which it is needed; and
 - III. Whether the screening needs to be year- round.
- 3) Privacy and noise: Non-residential structures which abut existing residential dwellings shall be located on the site or be designed in a manner, to the maximum degree possible, to protect the private areas on the adjoining properties from view and noise;
- E. Exterior elevations – Single-family attached and multiple-family structures: Along the vertical face of single-family attached and multiple-family structures, offsets shall occur at a minimum of every 30 feet by providing any two of the following:
 - 1) Recesses, e.g., decks, patios, entrances, floor area, of a minimum depth of eight feet;
 - 2) Extensions, e.g., decks, patios, entrances, floor area, of a minimum depth of eight feet, a maximum length of an overhang shall be 25 feet; and
 - 3) Offsets or breaks in roof elevations of three or more feet in height.
- F. Private outdoor area – residential use:

- 1) Exclusive of any other required open space facility, each ground-level residential dwelling unit shall have an outdoor private area (patio, terrace, or porch) of not less than 48 square feet with a minimum width dimension of four feet;
- 2) Wherever possible, private outdoor open spaces should be oriented toward the sun; and
- 3) Private outdoor spaces shall be screened or designed to provide privacy for the use of the space.

G. Shared outdoor recreation and open space facility areas – residential use:

- 1) Exclusive of any other required open space facilities, each residential dwelling development shall incorporate shared usable outdoor recreation areas within the development plan as follows:
 - a) Studio units up to and including two bedroom units, 200 square feet per unit;
 - b) Three or more bedroom units, 300 square feet per unit.
- 2) Shared outdoor recreation space shall be readily observable from adjacent units for reasons of crime prevention and safety;
- 3) The required recreation space may be provided as follows:
 - a) Additional outdoor passive use open space facilities;
 - b) Additional outdoor active use open space facilities;
 - c) Indoor recreation center; or
 - d) A combination of the above.

H. Access and circulation:

- 1) The number of required access points for a development shall be provided as required in the Molalla Development Code.
- 2) All circulation patterns within a development must be designed to accommodate emergency and service vehicles; and
- 3) Provisions shall be made for pedestrian and bicycle ways abutting and through a site if such facilities are shown on an adopted plan or terminate at the boundaries of the project site.

I. Landscaping and open space:

- 1) Residential Development: In addition to the buffering and screening requirements of this subsection, and any minimal use open space facilities, a minimum of 20 percent of the site shall be landscaped. This may be accomplished in improved open space tracts, or with landscaping on individual lots provided the developer includes a landscape plan, prepared or approved by a licensed landscape architect, and surety for such landscape installation.

J. Public Transit:

- 1) Provisions for public transit may be required where the site abuts or is within a quarter mile of a public transit route. The required facilities shall be based on:
 - a) The location of other transit facilities in the area; and
 - b) The size and type of the proposed development.
- 2) The required facilities may include but are not necessarily limited to such facilities as:
 - a) A waiting shelter;
 - b) A turn-out area for loading and unloading; and
 - c) Hard surface paths connecting the development to the waiting area.
- 3) If provision of such public transit facilities on or near the site is not feasible, the developer may contribute to a fund for public transit improvements provided the Planning Commission establishes a direct relationship and rough proportionality between the impact of the development and the requirement.

K. Parking:

- 1) All parking and loading areas shall be generally laid out in accordance with the requirements set forth in the Molalla Development Code;
- 2) Up to 50% of required off-street parking spaces for single-family attached dwellings may be provided on one or more common parking lots within the planned development as long as each single-family lot contains one off-street parking space.

L. Drainage: All drainage provisions shall be generally laid out in accordance with the requirements set forth in the Molalla Development Code. An applicant may propose an alternate means for stormwater conveyance on the basis that a reduction of stormwater runoff or an increase in the level of treatment will result from the use of such means as green streets, porous concrete, or eco roofs.

M. Floodplain Dedication: Where landfill and/or development are allowed within or adjacent to the 100-year floodplain, the City shall require consideration of the dedication of sufficient open land area for a greenway adjoining and within the floodplain. This area shall include portions of a suitable elevation for the construction of a pedestrian/bicycle pathway with the floodplain in accordance with the adopted pedestrian bicycle pathway plan.

N. Shared open space facilities: The detailed development plan shall designate a minimum of 20% of the gross site area as a shared open space facility. The open space facility may be comprised of any combination of the following:

- 1) Minimal use facilities. Up to 75% of the open space requirement may be satisfied by reserving areas for minimal use. Typically these areas are designated around sensitive lands (steep slopes, wetlands, streams, or 100 year floodplain).

- 2) Passive use facilities. Up to 100% of the open space requirement may be satisfied by providing a detailed development plan for improvements (including landscaping, irrigation, pathway and other structural improvements) for passive recreational use.
 - 3) Active use facilities. Up to 100% of the open space requirement may be satisfied by providing a detailed development plan for improvements (including landscaping, irrigation, pathway and other structural improvements) for active recreational use.
 - 4) The open space area shall be shown on the final plan and recorded on the final plat or covenants.
- O. Open space conveyance. Where a proposed park, playground or other public use shown in a plan adopted by the City is located in whole or in part in a subdivision, the Commission may require the dedication or reservation of such area within the subdivision, provided that the reservation or dedication is roughly proportional to the impact of the subdivision on the park system. Where considered desirable by the Commission in accordance with adopted comprehensive plan policies, and where a development plan of the City does not indicate proposed public use areas, the Commission may require the dedication or reservation of areas within the subdivision or sites of a character, extent and location suitable for the development of parks or other public use, provided that the reservation or dedication is roughly proportional to the impact of the subdivision on the park system. The open space shall be conveyed in accordance with one of the following methods:
- 1) Public ownership. Open space proposed for dedication to the City must be acceptable to it with regard to the size, shape, location, improvement and budgetary and maintenance limitations. A determination of City acceptance shall be made in writing by the Parks & Facilities Division Manager prior to final approval. Dedications of open space may be eligible for Systems Development Charge credits, usable only for the proposed development. If deemed to be not acceptable, the open space shall be in private ownership as described below.
 - 2) Private ownership. By conveying title (including beneficial ownership) to a corporation, home association or other legal entity, and granting a conservation easement to the City in a form acceptable by the City. The terms of the conservation easement must include provisions for the following:
 - a) The continued use of such land for the intended purposes;
 - b) Continuity of property maintenance;
 - c) When appropriate, the availability of funds required for such maintenance;
 - d) Adequate insurance protection; and
 - e) Recovery for loss sustained by casualty and condemnation or otherwise.
13. Add to the commercial section of Title 17 - No tavern shall be located within 500' of another tavern.
14. Define Brewery - An establishment for the manufacture of malt liquors, such as beer and ale. The sale and consumption of liquors can be consumed on premises as an accessory use to the manufacturing of liquors.

15. Define Tavern - A place where liquors are sold to be consumed on the premises.
16. 18.8.400(F) - Insert the following language: On a building containing multiple tenants signage requirements shall meet the maximums below as an entire building not as individual businesses.
17. Create a new Section 18.8.730 with the following:

18.8.730 Signage on Cars

Signs on cars not otherwise discussed in the MDC shall meet the following requirements:

1. May not project beyond the original frame of the vehicle more than 1/4";
2. May not be larger than 6 square feet; and
3. May not be parked in a right of way for periods of time to be used as a portable sign.

18. Define Trim Title 16 Definitions: Trim - Material used for decoration or embellishment; decorative trimming.

19. Add 19.3.700 the following:

19.3.700 CONDOMINIUM DEVELOPMENT OF 6 OR FEWER UNITS

Sections:

- 19.3.710 Generally
- 19.3.720 Standards Designated
- 19.3.730 Review by Planning Director
- 19.3.740 Responsibilities of Applicant
- 19.3.750 Conversion to Condominium
- 19.3.710 Generally

In that the new construction of small condominium projects is expected to have no adverse impacts on the appropriate growth and development of the city, the regulations set out in this chapter shall apply to such projects involving 6 or fewer units on a single parcel.

19.3.720 Standards Designated

1. All utilities shall be separated on a unit-to-unit basis, except in cases where the units are to be in multi-story structures where some of the units will not have ground floors, in which case the utilities shall be separated as much as possible from one unit to the next. The developer shall present plans for utility separation to the City Engineer, PGE, Molalla Telephone Company, and if appropriate Northwest Natural Gas.

2. Applicants shall be responsible for compliance with all applicable city, county and state regulations governing the construction, platting and sale of condominium units.
3. Improvement requirements for small condominium projects shall be the same as those which would be required for a subdivision of the property. These shall include:
 - A. Curb, gutter and sidewalk construction to city standards;
 - B. Installation and extension of utilities;
 - C. Street improvements adjacent to site;
 - D. Dedication of right-of-way sufficient to allow for the widening or expansion of the street;
 - E. Filing of a waiver of the right to remonstrate against any future public facility or utility improvements which would benefit the property.

19.3.730 Review by Planning Director

1. The Planning Director shall review the information submitted by the applicant and shall determine whether it meets the requirements of this and other applicable ordinances. Upon completion of this review, the Planning Director shall notify the applicant in writing of the required conditions to be met prior to sale or occupancy of the units.
2. If modifications to the project are necessary to assure compliance with the applicable regulations, the Planning Director shall notify the applicant of such modifications.
3. Included with the written notification from the Planning Director will be one copy of the proposed plot plan labeled "tentatively approved," or "tentatively denied" and marking any modification or corrections which may be necessary.

19.3.740 Responsibilities of Applicant

1. The applicant shall be responsible for compliance with all applicable requirements prior to sale or occupancy of the units. This shall include the following final procedures as well as compliance with the basic standards of this and other applicable ordinances.
2. The developer shall file with the Planning Director a reproducible copy (Mylar or sepia) of the recorded plat of the development.
3. Included with the copy of the plat will be copies of the by-laws of the owners' association and any contracts, covenants, restrictions or waivers of remonstrance recorded for the property.

19.3.750 Conversion to Condominium

Proposals to convert existing rentals or leased property to condominium ownership shall comply with the requirements of section Chapter 19.3, regardless of the number of units involved. Applicants intending to utilize the provisions of this chapter must file the appropriate application and receive written approval from the Planning Director prior to receipt of a certificate of occupancy for the units.

20. Create a new Chapter 20.2 and put the following in there:

20.2.010 Purpose

1. It is anticipated that some terms or phrases within the code may be ambiguous and therefore subject to two or more reasonable meanings. Because it is not possible to identify or remove all ambiguities in the Code, a process should be established for resolving these ambiguities in advance of or concurrent with applying for a particular permit or other action. The Planning Director's interpretations provides a process for resolving ambiguities in such a manner. All Planning Director's interpretations are subject to appeal to the Planning Commission as provided below.

20.2.020 Procedure

1. Requests. A request for an interpretation shall be made in writing to the Planning Director. The Planning Director may develop guidelines to and in the application process.
2. Decision to issue. The Planning Director shall have the authority to consider the request for an interpretation. The Director shall respond within 14 days after the request is made, as to whether or not the Director will issue the requested interpretation.
3. Planning Director may decline. The Planning Director is authorized to issue or decline to issue a requested interpretation. The Planning Director's decision to issue or decline to issue an interpretation is final when such decision is mailed to the party requesting the interpretation and such decision is not subject to any further local appeal.
4. Written interpretation mailed. If the Planning Director decides to issue an interpretation as requested, it shall be issued in writing and shall be mailed to the person requesting the interpretation and any other person that has specifically requested a copy of such interpretation.
5. Appeal to Planning Commission. The applicant and any party who received such notice or who participated in the proceedings through the submission of written or verbal evidence of an interpretation may appeal the Planning Director's Interpretation to the Planning Commission within 14 days after the interpretation was mailed to the applicant. The appeal may be initiated by filing a notice of appeal with the Planning Director pursuant to Title 19.
6. Appeal procedure. Planning Commission shall hear all appeals of a Planning Director's interpretation as a Type III Land Use action pursuant to Title 19, except that notice of the hearing shall be provided to the applicant, any other party who has filed a notice of appeal, and any other person who has requested notice.
7. Final decision/effective date. The decision of the Planning Commission on an appeal of a Planning Director's interpretation shall be final and effective when notice of the decision is mailed to the applicant, provided however, that if the applicant is the Planning Director or the City Council, the decision is final and effective when made.
8. Interpretations on file. The Planning Director shall keep on file in Title 22 of the Molalla Development Code.

21. Remove references to equestrian zones
22. Add to R-1 zone as a use Equestrian stables and trails pursuant to a Planned Unit Development.
23. In all zones change golf courses to be planned through a Planned Unit Development.
24. Add to Chapter 19.9

25. Add the following to 19.9.200 (B.2) make this the new sub (a):
 - Conditions of Approval. The Planning Director may impose conditions upon the approval of a home occupation permit to ensure compliance with the requirements of this chapter. These conditions may include, but are not limited to, the following:
 - Further limiting the hours, days, place and manner of operation;
 - Requiring site and building design features which minimize environmental impacts such as noise, vibration, air pollution, glare, odor and dust;
 - Requiring additional building setbacks, and increased lot area, depth or width;
 - Further limiting the building area and outdoor storage used by the home occupation and restricting the location of the use on the site in relationship to adjoining uses;
 - Designating the size, number, location and design of vehicle access points;
 - Requiring street right-of-way to be free at all times of vehicles associated with the home occupation;
 - Requiring landscaping, buffering and/or screening, of the home occupation from adjoining uses and establishing standards for the continued maintenance of these improvements;
 - Requiring storm drainage improvements, and surfacing of parking and loading areas;
 - Limiting the extent and type of interior or exterior building remodeling necessary to accommodate the home occupation;
 - Limiting or setting standards for the location and intensity of outdoor lighting;
 - Requiring and designating the size, height and location of fences and materials used for their construction;
 - Requiring the protection and preservation of existing trees, and other vegetation, watercourses, slopes, wildlife habitat areas and drainage areas;
 - Limiting the type and number of vehicles or equipment to be parked or stored on the site; and
 - Any other limitations which the Planning Director considers to be necessary or desirable to make the use comply with the underlying zoning district.

26. Change 19.9.200 (C) to the following:

- Grounds for revocation. The Planning Director may:
 - Revoke a home occupation approval if the conditions of approval have not been or are not being complied with and the home occupation is otherwise being conducted in a manner contrary to this chapter.
 - The Planning Director shall approve the use as it exists, revoke the home occupation permit, or compel measures to be taken to ensure compatibility with the neighborhood and conformance with this chapter after reviewing a complaint. Complaints may be originated by the City of Molalla or the public. Complaints from the public shall clearly state the objection to the home occupation, such as:
 - Generation of excessive traffic;
 - Exclusive use of on-street parking spaces;
 - Other offensive activities not compatible with a residential neighborhood.
- Cessation of home occupation pending review If it is determined by the Planning Director in exercise of reasonable discretion, that the home occupation in question will affect public health and safety, the use may be ordered to cease pending Planning Commission review and/or exhaustion of all appeals.
- Waiting period for re-application. When a home occupation permit has been revoked due to violation of these standards, a minimum period of one year shall elapse before another application for a home occupation on the subject parcel will be considered.
- Invalidation of permit. A home occupation permit shall become invalid if the applicant moves his or her residence.

27. Add to 19.9 Non-Conforming Use Confirmation the following:

19.9.??? Non-Conforming Use Confirmation

- Permit requirement. Using a Type I procedure, as governed by Title 17, the following criteria shall be used by the Planning Director to issue a confirmation of legal nonconforming use:
 - Proof that the use was permitted by this title at the time it was established, by any of the following:
 - Copies of building and/or land use permits issued at the time the use was established;
 - Copies of zoning code provisions and/or maps;
 - Demonstration that the use was established before the first development code for the community was adopted.

- Proof that the use has been maintained over time. This includes copies of the one or more of the following evidence for every other year from the time the use was established until the current year. Standard evidence that the use has been maintained over time includes:
 - Utility bills;
 - Income tax records;
 - Business licenses;
 - Listings in telephone, business and Polk directories;
 - Advertisements in dated publications, e.g., trade magazines, and/or;
 - Building, land use or development permits.

28. Add to 19.9 Tree Removal Permits the following:

19.9.??? Tree Removal Permits

- Value of trees. After years of both natural growth and planting by residents, the City now benefits from a large number of trees. These trees of varied types add to the aesthetic beauty of the community, help clean the air, help control erosion, maintain water quality and provide noise barriers.
- Illegal Tree Removal
 - Violations. The following constitute a violation of this chapter:
 - Removal of a tree:
 - ❖ Without a valid tree removal permit; or
 - ❖ In noncompliance with any condition of approval of a tree removal permit; or
 - ❖ In noncompliance with any condition of any City permit or development approval; or
 - ❖ In noncompliance with any other section of this title.
 - Breach of a condition of any City permit or development approval, which results in damage to a tree or its root system.
 - Remedies. If the Planning Director has reason to believe that a violation of this chapter has occurred, then he or she may do any or all of the following:
 - Require the owner of the land on which the tree was located to submit sufficient documentation, which may include a written statement from a qualified arborist or forester, showing that removal of the tree was permitted by this chapter;
 - Initiate a hearing on revocation of the tree removal permit and/or any other permit or approval for which this chapter was an approval standard;

- Issue a citation;
 - Take any other action allowed by law.
- Fines. Notwithstanding any other provision of this title, any party found to be in violation of this chapter shall be subject to a civil penalty of up to \$1000 and shall be required to remedy any damage caused by the violation. Such remediation shall include, but not be limited to, the following:
 - Replacement of unlawfully removed or damaged trees; and
 - Payment of an additional civil penalty representing the estimated value of any unlawfully removed or damaged tree, as determined using the most current International Society of Arboriculture's Guide for Plant Appraisal.
- Guidelines for replacement. Replacement of a tree shall take place according to the following guidelines:
 - A replacement tree shall be a substantially similar species taking into consideration site characteristics;
 - If a replacement tree of the species of the tree removed or damaged is not reasonably available, the Planning Director may allow replacement with a different species of equivalent natural resource value;
 - If a replacement tree of the size cut is not reasonably available on the local market or would not be viable, the Planning Director shall require replacement with more than one tree in accordance with the following formula: The number of replacement trees required shall be determined by dividing the estimated caliper size of the tree removed or damaged by the caliper size of the largest reasonably available replacement trees. If this number of trees cannot be viably located on the subject property, the Planning Director may require one or more replacement trees to be planted on other property within the City, either public property or, with the consent of the owner, private property;
 - The planting of a replacement tree shall take place in a manner reasonably calculated to allow growth to maturity.
- In lieu-of payment. In lieu of tree replacement as described in this chapter, a party may, with the consent of the Planning Director, elect to compensate the City for its costs in performing such tree replacement.
- Exclusivity. The remedies set out in this section shall not be exclusive.
- Extension. Upon written request by the applicant prior to the expiration of the existing permit, a tree removal permit shall be extended for a period of up to one year if the Planning Director finds that the applicant is in compliance with all prior conditions of permit approval and that no material facts stated in the original application have changed.