

**CHAPTER 10 - GENERAL PROVISIONS**

**10.05. Title.** This Code shall be known and may be cited as the "Beaverton Development Code" and shall be referred to herein as "this Code." [ORD 3226; October 1981] [ORD 4224; September 2002]

**10.10. Purpose.**

1. This Code has been designed in accordance with the goals, policies, and statements of intent of the Beaverton Comprehensive Plan, the officially enacted Comprehensive Plan for the City of Beaverton and its environs. It is the general purpose of this Code, therefore, to provide one of the principal means for the implementation of the Beaverton Comprehensive Plan.
2. In adopting this Code, the City Council is responding to the development of the City of Beaverton and the issues concerning that development. The Council is anticipating that, as future growth and urbanization continues, control will be required to preserve and enhance the amenities necessary to the prosperity and appearance of the community. [ORD 4224; September 2002]
3. This Code is designed to regulate the division of land and to classify, designate and regulate the location and use of buildings, structures, and land for residential, commercial, industrial, or other uses in appropriate places, and for said purposes to divide the City of Beaverton into districts of such number, shape, and area as may be deemed best suited to carry out these regulations and provide for their enforcement; to encourage the most appropriate use of lands; to conserve and preserve natural resources; to conserve and stabilize the value of property, to provide adequate open spaces for light and air and prevention of fires; to prevent undue concentrations of population; to facilitate adequate provisions for critical urban services such as fire, water, sewer, streets, and storm drainage systems; to facilitate adequate provision for essential urban services such as police, transit, schools, parks, libraries and other public service requirements; and to promote the public health, safety and general welfare. [ORD 3226; October 1981] [ORD 4224; September 2002]
4. To further implement the Beaverton Comprehensive Plan, this Code is adopted for the following special purposes:

10.10.4.

- A. To promote coordinated, sound development, taking into consideration the City's natural environment, amenities, views, and the appearance of its buildings and open spaces.
  - B. To achieve a balanced and efficient land use pattern, to protect and enhance real property values, to promote safe and uncongested traffic movement and to avoid uses and development which might be detrimental to the stability and livability of the City.
  - C. To encourage innovations in residential development and renewal so that the demand for housing may be met by a greater variety in the type and design of dwellings and by the conservation and more efficient and attractive use of open space.
  - D. To safeguard and enhance the appearance of the City through advancement of effective land use, architectural design and site planning which reflect improvements in the technology of urban development.
  - E. To provide an orderly, efficient and speedy process of reviewing applications for development activities and to avoid increased development costs borne by citizens and consumers as a result of unnecessary delay.
  - F. [ORD 4224; September 2002] To enable interested and affected persons to provide input in the development process.
5. Unless specifically indicated in the Comprehensive Plan, the provisions contained in this Code shall not apply to any application for Comprehensive Plan Amendment. Unless specifically indicated in this Code, the provisions contained in the Comprehensive Plan policies shall not apply to any applications regulated by this Code. [ORD 4224; August 2002]

**10.15. Compliance.**

1. Except as otherwise specifically provided by this Code, no building or other structure shall be constructed, improved, altered, enlarged or moved, nor shall any use or occupancy of premises within the City be commenced or changed, nor shall any condition of or upon real property be caused or maintained after November 18, 1978, except in conformity with conditions prescribed for each of the zones and general regulations established hereunder. It shall be unlawful for any person to erect, construct, establish, move into, alter, enlarge, or use, or cause to be used, any building, structure, improvement or use of premises located in any zone described in this Code contrary to the provisions of this Code. Where this Code imposes greater restrictions than those imposed or required by other rules or regulations or ordinances, the provisions of this Code shall control.
2. No yard or other open space provided about any building or on any building lot for the purpose of complying with the provisions of this Code shall be considered as providing a yard or other open space for any other building or any other building lot.
3. Except for the provisions of this Code which regulate signs, special events sponsored by non-profit organizations and public agencies are exempt from the provisions of this Code. Commercial activities not connected with a special event and activities specifically covered by this Code are subject to the provisions of this Code. [ORD 3188; October 1980] Signs for Special Events are subject to regulation under Section 60.40.20.6. [ORD 4010; March 1998] [ORD 4224; August 2002]
4. No person shall divide land without first complying with the provisions of this Code and the laws of the State of Oregon. [ORD 3226; October 1981]

**10.20. Interpretation and Application of Code Language.**

1. The terms or words used in this Code shall be interpreted as follows where the context demands; words in the present tense include the future; the singular number includes the plural and the plural number includes the singular; the word "shall" is mandatory and not discretionary; the word "may" is permissive; the masculine gender includes the feminine and neuter; the term "this Code" shall be deemed to include the text of this Code, the accompanying zoning map and all amendments made hereafter to either.
2. The Director shall have the initial authority and responsibility to interpret all terms, provisions and requirements of this Code. The City Council shall have the final authority to interpret all terms, provisions and requirements of this Code. Other persons requesting such an interpretation in writing shall do so in accordance with Section 40.25. (Director's Interpretation). [ORD 4224; August 2002]
3. [ORD 4224; August 2002] The Code shall be read literally. Regulations are not more or less strict than as stated.
4. [ORD 4224; August 2002] Proposals for uses where the code is silent or where the rules of the Code do not provide a basis for concluding that the use is allowed are prohibited.
5. [ORD 4224; August 2002] Uses of land not expressly allowed or not incidental to a Permitted or Conditional Use are Prohibited. [ORD 4498; January 2009]
6. [ORD 4224; August 2002] Where it is unclear whether or in what manner sections of this Code apply to a given situation, or if terms or sections are ambiguous or vague, the following should be applied as warranted under the circumstances:
  - A. Terms defined in Chapter 90 (Definitions) have specifically stated meanings unless the context clearly requires otherwise.
  - B. Terms not defined in Chapter 90 (Definitions) shall have the meaning set forth in Webster's Third New International Dictionary, 1993, copies of which are available for reference in the Community Development Department and Beaverton City Library.

10.20.6.

- C. This Code shall be interpreted reasonably, reading questioned regulations in relation to other sections such that an interpretation most fully effectuates the intent and purpose of the regulations.
7. [ORD 4224; August 2002] This Code shall be interpreted most favorably to provide all necessary authority to carry out its purposes and provisions.

Classification of Zoning Districts

10.25. **Classification of Zoning Districts.** The City is divided into the following zoning districts, each of which shall include a suffix letter designator with its map symbol to indicate its classification:

| <b>ZONING DISTRICT</b>                                   | <b>ABBREVIATION</b> |
|----------------------------------------------------------|---------------------|
| <b>Residential Districts</b>                             |                     |
| Urban High Density (1,000)                               | R1                  |
| Urban Medium Density (2,000)                             | R2                  |
| Urban Medium Density (4,000)                             | R4                  |
| Urban Standard Density (5,000)                           | R5                  |
| Urban Standard Density (7,000)                           | R7                  |
| Urban Low Density (10,000)                               | R10                 |
| <br><b>Commercial Districts</b> [ORD 3352; January 1984] |                     |
| Neighborhood Service Center                              | NS                  |
| Community Service                                        | CS                  |
| Corridor Commercial                                      | CC                  |
| General Commercial                                       | GC                  |
| <br><b>Industrial Districts</b>                          |                     |
| Office Industrial                                        | OI                  |
| Industrial                                               | IND                 |
| <br><b>Multiple Use Districts</b>                        |                     |
| Regional Center—Transit Oriented                         | RC-TO               |
| Regional Center—Old Town                                 | RC-OT               |
| Regional Center—East                                     | RC-E                |
| Office Industrial—Washington Square                      | OI-WS               |
| Commercial—Washington Square                             | C-WS                |
| Town Center—Multiple Use                                 | TC-MU               |
| Town Center—High Density Residential                     | TC-HDR              |
| Station Community—Multiple Use                           | SC-MU               |
| Station Community—High Density Residential               | SC-HDR              |
| Station Community—Sunset                                 | SC-S                |
| Station Community—Employment Sub Area 1 & 3              | SC-E1 & 3           |

[ORD 4005; February 1998] [ORD 4058; September 1999] [ORD 4075; December 1999] [ORD 4224; August 2002] [ORD 4265; October 2003] [ORD 4542; June 2010]

**10.30. Zoning Map.**

1. The boundaries of the zoning districts established in this Code are indicated on a map entitled "Zoning Map of the City of Beaverton" which shall hereinafter be referred to as the "City zoning map". The City zoning map and all amendments and changes thereto, and all legends, symbols, notations, references and other matters shown thereon, are hereby adopted by reference.
2. Amendments to the City zoning map may be made in accordance with Section 40.97. of this Code. Copies of all map amendments shall be dated with the effective date of the document adopting the map amendment and shall be maintained without change, together with the adopting document, on file in the office of the City Recorder. [ORD 4224; August 2002]
3. The Director shall maintain an up-to-date copy of the City zoning map to be revised from time to time so that it accurately portrays changes of zone boundaries. [ORD 3739; September 1990] [ORD 4224; August 2002]

**10.35. Interpretation of District Boundaries.**

1. [ORD 4224; August 2002] When bordering a public right-of-way, all zoning district boundaries shall extend to the centerline of the right-of-way as shown on the Comprehensive Plan.
2. Where due to the scale, lack of detail or illegibility of the City zoning map or due to any other reason, there is uncertainty, contradiction or conflict as to the intended location of any district boundary, the exact location of a district boundary line shall be determined by the Director in accordance with the following standards:
  - A. Street Lines. Where district boundaries are indicated as approximately following the centerline of a right-of-way, such lines shall be construed to be such district boundaries. [ORD 4224; August 2002]
  - B. Street Vacations. Whenever any public right-of-way is lawfully vacated the lands formerly within such public right-of-way shall be subject to the same zoning regulations as are applicable to the underlying property unless the zoning is changed by separate action. [ORD 4224; August 2002]
  - C. Lot Lines. Where district boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be said boundaries. If a district boundary divides a lot into two or more districts, the entire lot shall be placed in the district that accounts for the greater area of the lot by the adjustment of the district boundary, provided that the boundary adjustment is for a distance of 20 feet or less. If an adjustment of more than 20 feet is required, the change in the district boundary shall be treated as a change of zone. [ORD 4224; August 2002]
  - D. Water Courses. District boundary lines are intended to follow the center lines of water courses unless such boundary lines are fixed by dimensions shown on the City zoning map.



**10.40. Annexation.**

1. Any area annexed to the City shall retain the zoning classification of its former jurisdiction until changed by the City. In the interim period, the City shall enforce the zoning regulations of the former jurisdiction along with any conditions, limitations or restrictions applied by the former jurisdiction as though they were a part of this Code, except that the provisions of Chapters 30 through 80 of this Code shall supersede comparable provisions of the zoning regulations in force in the former jurisdiction at the time of annexation.
2. The City may consider the zoning for any area proposed for annexation at the same time as it considers annexation of the area or at a later time. The zoning decision shall not be a final decision for the purposes of judicial review until the date that the question of annexation has received all approvals required by City and State law and has become effective. [ORD 4135; December 2000] [ORD 4224; August 2002] [ORD 4397; August 2006]
3. [ORD 4135; December 2000] The process for zoning map amendments that are associated with annexations shall be as follows:
  - A. For parcels in which the Washington County - Beaverton Urban Planning Area Agreement (UPAA) identifies a specific City zoning designation and leaves no discretion about which zoning district to assign, the City Council shall adopt the required zoning map amendment without a public hearing pursuant to Section 40.97.15.3. (Non-Discretionary Annexation Related Zone Change) of this Code. [ORD 4224; August 2002]
  - B. For parcels where the UPAA does not identify a specific City zoning designation and discretion is required, a public hearing shall be held pursuant to Section 40.97.15.4. (Discretionary Annexation Related Zone Change) of this Code. The Planning Commission may conduct the public hearing on the zoning change unless State law requires the City Council to hold a public hearing on the related annexation in which case the zoning map amendment hearing will be conducted concurrently by the City Council and the Planning Commission hearing will not be required. The most similar City zoning designation will be applied as required by the UPAA. [ORD 4224; August 2002] [ORD 4397; August 2006]

10.40.

4. [ORD 4224; August 2002] Development, uses, or both which have received approval from the former jurisdiction shall continue to be approved and subject to the conditions of approval established by the former jurisdiction, if any. After the effective date of either Annexation Related Zone Change application, any change to any development or uses annexed into the City shall be subject to the City zoning regulations in effect at the time of the proposed change.

**10.45. Relationship to Other Regulations and Restrictions.** It is not intended by this Code to interfere with or abrogate or annul any easements, covenants, or other agreements between parties; provided, however, that where this Code imposes a greater restriction upon the use of buildings or premises or upon height of buildings, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations, or by easements, covenants, or agreements, the provisions of this Code shall govern.

**10.50. Authorization for Similar Uses.** The Director may authorize that a use, not specifically named in the allowed uses, be Permitted if the use is of the same general type and is similar to the allowed uses; provided, however, that the Director may not permit a use already allowed in any other zoning district of this Code. Application for such a decision shall be processed as a Director's Interpretation, as provided by Section 40.25. of this Code. [ORD 4224; August 2002]

**10.55. Fees.**

1. In order to defray expenses incurred in connection with the processing of applications, preparation of reports, publications of notices, issuance of permits and other matters, the City may charge and collect filing and other fees as established by resolution of the Council. The required fees shall be paid to the City upon filing of an application or at such other time as may be specified in this Code. The City may charge double the usual application fee to those who fail to apply for any permit or other approval required by the City. The failure to submit a required fee with an application or an application for appeal, including return of checks unpaid or other failure of consideration, may preclude the processing of that application or appeal. [ORD 4224; August 2002]
2. The Council may reduce or waive required fees upon a showing of just cause to do so. [ORD 3823; August 1992] [ORD 4224; August 2002]

10.55.

3. [ORD 4224; August 2002] If a governmental agency requires removal or relocation of a sign, the fee for any application (Section 40.60.) to replace or relocate that sign is waived.

**10.60. Burden of Proof.** [ORD 4224; August 2002]

1. Except as otherwise provided, the applicant shall bear the burden of proof and persuasion that the proposal is in compliance with the applicable provisions of this Code.
2. Failure to comply with applicable procedural provisions of this Code shall invalidate an action only if it prejudices the substantial rights of the person alleging the error. Persons alleging a procedural error shall have the burden of proof and persuasion as to whether the error occurred and whether the error has prejudiced the person's substantial rights.

**10.63. Provide Orderly Development.** [ORD 4542; June 2010]

1. To provide for orderly development of the adjoining property or to provide an adequate grid of the City system, the City Engineer or designee shall require extension of water lines, sanitary and storm sewer lines through applicant's property to the property line of the adjoining or abutting property.
2. Extension of streets shall conform to the requirements of Section 60.55. (Transportation Facilities).
3. Facilities required in accordance with this section shall be consistent with the acknowledged Comprehensive Plan.
4. Where physical or topographic conditions make the extension of a facility or facilities impracticable, the City Engineer or designee may require a cash payment to the City in lieu of the extension of the facility or facilities, the amount of which shall be equal to the estimated cost of the extension(s) under more suitable conditions.

**10.65. Conditions of Approvals.** [ORD 4224; August 2002]

1. The decision making authority cannot approve applications the impacts of which cannot be mitigated through reasonable roughly proportional conditions of approval. Therefore, the decision making authority may impose conditions on any Type 1, Type 2, or Type 3 approval. Such conditions shall ensure that the proposal complies with the appropriate approval criteria. [ORD 4302; June 2004]
2. In addition to conditions imposed pursuant to Section 10.65.1. above, a condition is valid and enforceable when the applicant has:
  - A. Requested the condition;
  - B. Allowed the decision to become final; or
  - C. Taken a substantial step in reliance on the permit that includes the condition.
3. Contract for Conditions. When the approval requires a contract, conditions may be set forth in a contract executed between the City, acting by and through the Mayor, and the property owner and any contract purchasers, and approved as to form by the City Attorney. If a contract is required, no development permits in connection with approval shall be issued until the properly executed contract is recorded with the Department of Records and Elections of Washington County at the expense of the applicant. The condition, as set forth in the contract and recorded, shall constitute a covenant running with the land in favor of the City of Beaverton and, unless otherwise provided, shall be removed only with the express authorization of the City Council. In return for the granting of the application, the property owner, contract purchasers and their heirs, successors and assigns shall be responsible for performing the conditions set forth therein. Said contract shall contain provisions that it is enforceable against the signing parties, their heirs, successors and assigns by the City by appropriate legal proceedings.
4. Assurance of Compliance with Conditions. A bond, cash deposit, or other security in an amount sufficient to ensure compliance with a condition of approval and accepted by the City may be required from the applicant. Such security shall be posted prior to the issuance of the appropriate construction permit.

10.65.

5. Challenge to Condition. If the applicant asserts that it cannot legally be required, as a condition of land use approval, to provide property interests or improvements at the level otherwise required by this section, then:
  - A. The land use application shall include a "rough proportionality" report, prepared by a qualified civil or traffic engineer, as appropriate, showing:
    1. The estimated extent to which the improvements will be used by persons served by the building or development, whether the use is for safety or for convenience;
    2. The estimated level of improvements needed to meet the estimated extent of use by persons served by the building or development;
    3. The estimated impact of the building or development on the public infrastructure system of which the improvements will be a part; and
    4. The estimated level of improvements needed to mitigate the estimated impact on the public infrastructure system; and
  - B. The applicant shall instead be required to provide property interests and improvements that are reasonably related and roughly proportional to what is needed for the safety or convenience of persons served by the building or development plus those additional easements and improvements that are reasonably related and roughly proportional to what is needed to mitigate the impact of the building or development on the public infrastructure system of which the improvements will be a part, if the impacts are not fully mitigated by the property interests and improvements needed for the safety or convenience of persons served by the building or development. The requirements to be imposed under this subsection shall be determined following consideration of the "rough proportionality" report submitted by the applicant and of any other relevant evidence submitted by the City or others for consideration during the application process.

10.65.

6. Recordation of Conditions. All conditions of approval for a specific proposal shall be recorded in the Deed Records for the specific parcel with the Washington County Department of Assessment and Taxation. The conditions of approval to be recorded may be in the form of a Land Use Order or other City issued document. The City shall conduct the recordation and the applicant shall pay the applicable recording fee.
7. Failure to Fulfill Previous Conditions. As a condition of approval of an application for a permit the City may require the property owner to fulfill or to give security to fulfill a prior condition of approval of a land use permit for the same property that was imposed by any governmental entity with jurisdiction unless the owner shows that to fulfill that condition would be useless, impractical or impossible in light of the use now proposed for the property in the current application for a permit.
8. Modification or Removal of Conditions. Refer to Section 50.95.
9. Revocation. Failure to fulfill any conditions of approval within the time limits provided shall constitute a violation of this Code and the subject approval will be subject to code enforcement proceedings. Enforcement proceedings may include revocation of the subject approval after a hearing by the City Council.

**10.70. Enforcement.**

1. General. It shall be the duty of the Mayor to enforce the provisions of this Code. The term, "this Code", means not only the provisions expressed herein but also the conditions or terms of any permit, certificate, license or approval granted pursuant to this Code. The Mayor may use the resources of any City department to assist in carrying out the City's responsibilities under this section. [ORD 3226; October 1981]
2. Official Action. All officials, departments and employees of the City vested with authority to issue permits, certificates, licenses, or grant approvals, shall adhere to and require conformance with this Code and shall issue no permit, certificate, license or grant approval for any use, building or purpose which violates or fails to comply with conditions or standards imposed by this Code. Any permit, certificate, license or approval issued or granted in conflict with the provisions of this Code, intentionally or otherwise, shall be void.
3. Maintenance. [ORD 4224; August 2002] All improvement(s) constructed pursuant to an approval under this Code shall be maintained in perpetuity by the property owner in compliance with the relevant conditions of approval unless otherwise modified by action of the City.
4. Abatement. Any use which is established, operated, erected, moved, altered, enlarged, painted, or maintained contrary to this Code or to any permit or approval granted under this Code shall be and is hereby declared to be unlawful and a public nuisance, and may be abated as such. [ORD 4224; August 2002]
5. Injunctive Relief. Upon request of the Mayor, the City Attorney may institute a suit in equity in the Circuit Court of the State of Oregon to enjoin the maintenance of any use, occupation, building or structure or any activity being conducted or proposed to be conducted in violation of any provision of this Code. [ORD 3739; September 1990]
6. Penalties. Any person, firm or corporation, whether as principal, agent, employee or otherwise, violating or causing the violation of any provision of this Code shall be deemed to have committed a Class 1 City infraction, such infraction to be processed in accordance with the procedures set forth in the City Civil Infractions Ordinance.

10.70.

7. Presumption. [ORD 4224; August 2002] The City shall have a rebuttable presumption that a violation of the Code was caused or allowed by the person owning or controlling the property.
8. Cumulative Remedies. The right, remedies, and penalties provided in this section are cumulative and not mutually exclusive and are in addition to any other rights, remedies, and penalties available to the City under any other ordinance or law.
9. Violation of Development Agreement. [ORD 4294; April 2004] If the City has entered a development agreement with any party concerning the development of land within the City and has mailed or delivered a written notice that the party is in breach or default of the development agreement, the City may deny any application for land use or building permits on such property because of the breach or default of the development agreement.10.70.
10. Inclement Weather Emergency Shelters. [ORD 4505; May 2009] In the event of Severe Heat or Severe Cold weather conditions, land use approvals for places of worship, secondary public schools, and public buildings shall include use of the facilities as Emergency Shelters, provided such facilities comply with the requirements set forth in the Washington County Severe Weather Shelter Response Plan, or successor plans. The Emergency Shelter shall not remain in activation beyond the Severe Heat or Severe Cold conditions.



**10.75. Administrative Rules.**

1. The Mayor may promulgate such rules and regulations as he considers necessary to facilitate the administration and interpretation of this Code.
2. A person aggrieved by the application of this Code to an application for any permit or approval allowed under this Code may appeal such a decision pursuant to Sections 50.60 through 50.75 of this Code. [ORD 4224; August 2002]
3. A person aggrieved by the application of a rule or regulation concerning the interpretation of this Code shall follow the provision for interpreting this Code found in Section 40.25. (Director's Interpretation). [ORD 4224; August 2002]

**10.80. Severability.** The provisions of this Code are severable. If a portion of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Code.

**10.85. Repeal.** Ordinance Nos. 550, 556, 620, 631, 639, 727, 783, 820, 828, 829, 843, 877, 939, 952, 1025, 1044, 1059, 1086, 1123, 1141, 1193, 1249, 1394, 1427, 1485, 1498, 1499, 1520, 1600, 1660, 1724, 1737, 1743, 1795, 1900, 1913, 1933, 2001, 2063, 3018, 3030, 3032, 3039, 3058 and 3067 are repealed.

**10.90. Saving Clause.** The repeal of any ordinance listed in Section 10.85. shall not affect or prevent application of remedies or punishment of a person for an act done or committed prior to November 18, 1978 and in violation of any ordinance repealed and listed in Section 10.85.

**10.93. Hearings Officer.** The City Council may by resolution transfer any or all quasi-judicial powers and duties, including quasi-judicial administrative powers and duties, of the Planning Commission as herein provided to a Hearings Officer. Prior to such action, the Commission, as appropriate, shall comment on and recommend to the Council which specific matters should be transferred to the Hearings Officer. [ORD 3216; July 1981]

**10.95. Development Review Participants.** [ORD 4224; August 2002] The following are the primary participants in the planning and development review decision making process in the City of Beaverton. The roles of these participants are outlined in this Section and may be further defined by the City Council through ordinance or resolution.

**1. City Council.**

A. Membership. The City Council is composed of five councilors elected at large to serve a four year term.

B. Responsibility and Authority.

1. The City Council may, by ordinance or resolution, create or continue a Planning Commission or Commissions which shall act as planning and development advisory body(s) to the Council and shall have such other powers and authority as described in this Code or as may be specified by the Council through resolution.

2. The City Council, may, by ordinance or resolution, create subcommittee(s) of the Planning Commission(s) and delegate to such subcommittee(s) such powers and authority deemed necessary by the Council.

3. The City Council shall be the decision making authority on the following applications: Street Vacation, Text Amendment, Quasi-Judicial Zone Change, Legislative Zone Change, Non-Discretionary Annexation Related Zone Change, Discretionary Annexation Related Zone Change, appeals of Director's Interpretation, and appeals of all Planning Commission decisions on Type 3 applications. [ORD 4532; April 2010]

C. Meetings. The City Council shall hold a regular meeting every Tuesday of each week of each month. However, a meeting need not be held if there are no items submitted for review by the Council or if the designated meeting date falls on a holiday. [ORD 4584; June 2012]

10.95.

**2. Planning Commission.**

A. Membership.

1. There is hereby continued a Planning Commission which shall consist of seven (7) members appointed by the Mayor and confirmed by the City Council for three year terms or until their respective successors are appointed and qualified. Terms of office shall begin on the first day of the calendar year.
2. The Mayor, with approval of the Council, shall appoint one or more alternate members of the Commission. The alternate member having seniority as an alternate shall assume the position of a regular member immediately upon a vacancy in that position and for the remainder of the term of that position. Alternate members shall attend all meetings of the Commission, shall be entitled to all information regularly provided to members of the Commission and shall be subject to removal on the same terms and in the same manner as a regular Commission member.
3. Upon the resignation, permanent disqualification, or removal of any member of the Planning Commission, the Mayor, with Council consent, may appoint the senior most alternate to fill out the remainder of the term. If an alternate is not available, the Mayor, with Council consent, may appoint a successor to fill out the remainder of the term.
4. Planning Commissioners shall serve at the pleasure of the Mayor and may be removed without cause at any time with the consent of the Council.

## 10.95.2.A.

5. Members of the Planning Commission shall be residents of the City, except as provided by Section 10.95.2.A.6. below, and are not Council members or City employees. The membership of the Planning Commission should consist of at least two (2) individuals actively engaged in architecture, landscape architecture, design, engineering or in a construction related industry, or the graphic arts. No more than two (2) members shall be engaged principally in the buying, selling, or developing of real estate. No more than two (2) members shall be engaged in the same occupation. [ORD 4532; April 2010]
6. The Mayor, with approval of the Council, may appoint as a member of the Planning Commission an urban design professional licensed by the State of Oregon. The residency requirement of Section 10.95.2.A.5. above is not applicable to such an appointment. [ORD 4532; April 2010]
7. The Mayor, the City Attorney, and such other City personnel as the Council may from time to time designate, shall be entitled to sit with the Commission and take part in its discussions, but they shall not have the right to vote.

B. Responsibility and Authority.

1. The Planning Commission has all powers and duties that are now or may hereafter be granted to or imposed on it by Charter, Code and City ordinances, State law and official policies promulgated by the City Council.
2. The Planning Commission shall act on the behalf of the City on the following applications: Major Adjustment, Major Modification of a Conditional Use, New Conditional Use, Planned Unit Development, Design Review Three, Flexible Setback for Individual Lot Without Endorsement, Alteration of a Landmark, Demolition of a Landmark, New Construction in a Historic District, Tree Plan Three, Variance, Wireless Facility Three, and appeals of some decisions of the Director. [ORD 4365; October 2005] [ORD 4532; April 2010] [ORD 4584; June 2012]

## 10.95.2.B.

3. The Planning Commission shall act on the behalf of the City where there are multiple complete applications for a single property for which the decision making authority is a combination of either the Director or Planning Commission. [ORD 4532; April 2010]
4. The Planning Commission shall advise the City Council on Text Amendment, Quasi-Judicial Zone Change, Legislative Zone Change, and Discretionary Annexation Related Zone Change application(s). [ORD 4532; April 2010]
5. The Planning Commission may appoint a subcommittee(s) of the Planning Commission to act upon such matters as the Planning Commission may delegate or City Council may delegate through ordinance or resolution.

C. Rules and Procedures.

1. The Planning Commission shall hold a regular meeting every Wednesday of each week of each month. However, a meeting need not be held if there are no applications submitted for review by the Commission or if the designated meeting date falls on a holiday.
2. With the exception to continue an agenda item to a future meeting, the Planning Commission may conduct business only when a quorum of the members is present. For purposes of interpreting the provisions of these rules, every member of the Commission who is present shall be counted for the purposes of constituting a quorum, even if the member does not vote on one or more matter before the Commission.
3. The Planning Commission shall, at or before its first meeting in December each year, elect one of its members to serve as Chairman and another to serve as Vice-Chairman which shall be effective as of the following January 1.
4. Actions by the Planning Commission require a majority vote of those present and voting.

## 10.95.2.C.

5. A tie vote on an action shall constitute a denial of the request. However, if the final vote on an application is a tie, the applicant may request a continuance to a future public hearing. If such continuance is granted, the matter shall be continued to a date, time, and location certain for another vote of the Commission. A member not present at the earlier hearing may participate if the member indicates on the record that he or she has reviewed the record of the earlier hearing. If a tie vote remains after the continued proceeding, the action is deemed denied. If a tie vote of the Planning Commission occurs when the Commission is reviewing an appeal of a Director's decision, the original Director's decision shall stand.

**3. Facilities Review Committee.**

- A. Membership. There is hereby continued a Facilities Review Committee whose members shall consist of persons with the technical expertise in and responsibility for technical issues including, but not limited to land use, transportation, utilities, police, and fire. The Director shall convene the Facilities Review Committee and the Committee has the power to carry out the duties set forth in this Code. A representative from any unit of local government or public agency with regulation jurisdiction concerning a project shall be entitled to participate as an ex officio member of the Committee in committee meetings, make recommendations on any proposal, or make written comments relevant to the review of a particular proposal.
- B. Powers and Duties. The Facilities Review Committee shall review and shall make the necessary recommendations to the Director concerning technical aspects of the proposals based upon the technical criteria listed in Section 40.03. of this Code for the following Type 2 and Type 3 land use applications: all Conditional Use, Design Review Two, Design Review Three, all Land Division, Public Transportation Facility, and Street Vacation. The Facilities Review Committee shall review and shall make recommendations to the Director based on the applicable approval criteria for all other Type 2 land use applications. The Facilities Review Committee may review and may make recommendations to the Director based on the applicable approval criteria for all other Type 3 and Type 4 land use applications. [ORD 4404; October 2006]

## 10.95.3.

- C. Meetings. The Facilities Review Committee shall hold a regular meeting every Wednesday of each week of each month. However, a meeting need not be held if there are no applications submitted for review by the Committee or if the designated meeting date falls on a holiday.
- D. Committee Recommendations. The conditions recommended by the Facilities Review Committee shall represent a consensus of the Committee. Moreover, the conditions recommended by the Facilities Review Committee are for the purpose of ensuring compliance with the technical criteria listed in Section 40.03. of this Code for the following Type 2 and Type 3 land use applications: all Conditional Use, Design Review Two, Design Review Three, all Land Division, Public Transportation Facility, and Street Vacation. The Planning Commission or City Council acting as the decision making authority on an application(s) may change the conditions recommended by the Committee only after requesting and receiving a written report from the Facilities Review Committee detailing the technical aspects concerning the purpose and need for the recommended condition(s). [ORD 4404; October 2006] [ORD 4584; June 2012]