



**CITY OF BEAVERTON  
STAFF REPORT**

**HEARING DATE:** February 12, 2019

**STAFF REPORT DATE:** February 5, 2019

**TO:** Planning Commission

**STAFF:** Sambo Kirkman, Senior Planner

**SUBJECT:** **TA2019-0003 (Omnibus Text Amendment)**

**REQUEST:** The City proposes to amend the Development Code to correct minor errors and inconsistencies, to clarify code language, improve the organization of the Code, make the Code easier to understand and apply, and minor policy changes that are not large enough to warrant separate text amendment applications. The updates will affect all the Chapters of the Development Code which includes: Chapter 10 (General Provisions), Chapter 20 (Land Uses), Chapter 30 (Nonconforming Uses), Chapter 40 (Applications), Chapter 50 (Procedures), Chapter 60 (Special Requirements), and Chapter 90 (Definitions).

**APPLICANT:** City of Beaverton

**APPLICABLE CRITERIA:** Development Code Section 40.85.15.1.C.1-7 (Text Amendment Approval Criteria)

**RECOMMENDATION:** Staff recommend the Planning Commission review the proposal, take public testimony, deliberate on the proposal, and make a recommendation to City Council.

**1. Summary of Proposed Text Amendment**

An Omnibus Text Amendment is an opportunity to make periodic corrections, clarification, updates to the Beaverton Development Code (Code), codify prior Planning Director interpretations, and make the Code consistent with changing state regulations. Omnibus is a series of recommended changes to the Code that reflect issues raised since the last Omnibus in 2016. The 2019 Omnibus Text amendment is expected to propose changes in all chapters of the Code and are categorized as:

- Clarification of Code Language
- Organizational Change
- Minor Policy Changes

Exhibit A identifies the proposed modified text, including both new and deleted language, Exhibit B is an analysis of the proposed changes by chapters, providing staff's findings related to the proposed changes, and Exhibit C is the proposed text. Some of the changes proposed are minor policy changes, which staff believe do not require separate text amendment applications. The following is list of the minor policy changes by Code Chapter.

#### Chapter 20

- In Commercial zoning districts, remove the minimum 20-foot front and side yard setbacks abutting streets. Exempt abutting side yard setbacks for commercial parcels that are not abutting residential uses on residentially zoned parcels.
- In the Commercial zoning districts, reduce the distance of buildings that the maximum height requirement of 35 feet applies, from 100 feet to 50 feet from a residentially-zoned property line.
- In the commercial zoning districts, exempt recreational facilities from other commercial zoning requirements in Sections 20.10.30, 20.10.35, and 20.10.40.
- Update the Chapter 20 use tables to include meeting facilities in more zoning districts.
- In the multiple use zoning districts, clarify the 15% open area sales limitation does not apply to temporary uses.
- In multiple use zone allow expansion, of up to 10 percent, to existing single-family dwellings and exempting requirements for Design Review.
- Update the uses chapters of all the zoning districts to address Public Art, Dog Parks, and Dog Runs and also allow some animal care uses in developments that support residential communities.

#### Chapter 40

- Add criteria to allow for modification of grading standards associated with tree protection for both Minor and Major Adjustments.
- Clarify existing language that lot averaging may not be used in conjunction with requests for Variances and Adjustments.
- Update the Accessory Dwelling Units standards to comply with state regulations.
- Utilize the CU process to address the Washington County Type I, II, III review for parcels that are zoned Interim Washington County.
- Add new residential development in the floodway fringe as a threshold for a New Conditional Use application to be consistent with requirement in Section 60.10.25.25.2 of the Code.
- Update Design Review Type 2 and 3 thresholds and criteria to address how non-building structures and added parking spaces or parking area are to be regulated.
- For Flexible Setback without Endorsement, modify the approval criteria to ensure the intent of the Type 3 process in which the impacts to the surrounding area have been adequately addressed.
- Modify the approval criteria for Land Divisions and Zoning Map Amendments to allow parcels to contain more than one zoning district, subject to certain lot size standards.

- Consolidate Home Occupation Type 2 approval criteria to be more concise.
- Update the Temporary Use-Non-Mobile Sales thresholds to allow them in association with lawfully established non-residential uses in residential zoning districts adjacent to arterials and collectors.

### Chapter 60

- Updates to the Design Standards and Guidelines primarily to clarify existing language.
- Update the Accessory Dwelling Units standards to comply with state regulations.
- Update minimum standards for sidewalk/ walkway widths from four (4) feet to five (5) feet.

### Chapter 90

The proposed amendment includes both new definitions and updates to existing definitions to better support the regulations in the Code.

## **2. Public Comment**

Public notice was provided consistent with Section 50.50 of the Code. No public testimony has been received.

## **3. Facts and Findings**

Section 40.85.15.1.C of the Code specifies that in order to approve a Text Amendment application, the decision-making authority shall make findings of fact, based on evidence provided by the applicant, that all of the criteria specified in Section 40.85.15.1.C.1-7 are satisfied. The following are the findings of fact for TA2019-0003 (Omnibus Text Amendment):

### ***Text Amendment Approval Criteria***

#### ***1. The proposal satisfies the threshold requirements for a Text Amendment application.***

Section 40.85.15.1.A specifies that an application for a text amendment shall be required when there is proposed any change to the Code, excluding changes to the zoning map. TA2019-0003 proposes to make changes to each chapter in the Code, as shown in as shown in Exhibit A.

**Therefore, staff finds that the text amendment meets the criterion for approval.**

#### ***2. All City application fees related to the application under consideration by the decision-making authority have been submitted.***

Policy Number 470.001 of the City's Administrative Policies and Procedures manual states that fees for a City initiated application are not required where the application fee would be paid from the City's General Fund. The Planning Division, which is a General Fund program, initiated the application. Therefore, the payment of an application fee is not required.

**Therefore, staff finds that the criterion for approval for this text amendment is not applicable.**

***3. The proposed text amendment is consistent with the provisions of the Metro Urban Growth Management Functional Plan.***

Metro's Urban Growth Management Functional Plan (UGMFP) is the document that defines how local governments are to implement the Metro Regional Goals and Objectives. The UGMFP is comprised of the following titles:

- Title 1: Requirements for Housing and Employment Accommodations
- Title 2: Regional Parking Policy (Repealed and moved to Title 4 of the Regional Transportation Functional Plan (RTFP))
- Title 3: Water Quality and Flood Management
- Title 4: Industrial and Other Employment Areas
- Title 5: Neighbor Cities and Rural Reserves
- Title 6: Centers, Corridors, Station Communities and Main Streets
- Title 7: Housing Choice
- Title 8: Compliance Procedures
- Title 9: Performance Measures (Repealed)
- Title 10: Functional Plan Definitions
- Title 11: Planning for New Urban Areas
- Title 12: Protection of Residential Neighborhoods
- Title 13: Nature in Neighborhoods
- Title 14: Urban Growth Boundary

The City is required to bring its land use regulations into conformance with the UGMFP. The Code has been amended to incorporate several policies of the UGMFP. The proposed amendment includes clarifications, corrections, and minor policy changes to existing provisions that are not in conflict with the UGMFP.

**Metro UGMFP Summary:** Therefore, staff finds that the proposed text amendment is consistent with the applicable provisions of the UGMFP.

**Therefore, staff finds that the text amendment meets the criterion for approval.**

#### **4. *The proposed text amendment is consistent with the City's Comprehensive Plan.***

Beaverton's Comprehensive Plan provides policy direction on matters related to future growth and physical development of the city including land use, economy, transportation, housing, natural resources, and other relevant topics. Oregon state law requires all cities and counties to prepare and adopt comprehensive plans that are consistent with Statewide Planning Goals. Some of the proposed changes under this Omnibus Proposal do not create any new policies or regulations, for those changes staff find that the no Comprehensive Plan Policies apply. However for minor policy changes identified in the proposed amendment, the applicable goals and policies of Comprehensive Plan are addressed below. Additionally staff cite the findings provided in Exhibit B, Analysis of Proposed Changes by Chapters as applicable to addressing this criterion. Categorized by Land Use Chapter, each proposed text change is bulleted below the applicable goal or policy (*italicized*). The following are staff's findings to these applicable goals and policies:

#### Chapter 3: Land Use

##### *3.2.1.b Encourage and support quality redevelopment in target areas that is consistent with city goals.*

- Update Design Review Type 2 and 3 thresholds and criteria to address how non-building structures and added parking spaces or parking area are to be regulated.
- For Flexible Setback without Endorsement, modify the approval criteria to ensure the intent of the Type 3 process in which the impacts to the surrounding area have been adequately addressed.
- Updates to the Design Standards and Guidelines primarily to clarify existing language.
- Modify the approval criteria for Land Divisions and Zoning Map Amendments to allow parcels to contain more than one zoning district, subject to certain size requirements.

The proposed amendments are to encourage quality development by improving the language of some Design Standards and Guidelines and creating thresholds in the Design Review application to ensure development proposals such as non-habitable structures are reviewed to show the City's development standards are being met. The addition of a new approval criteria for Flexible Setbacks without Endorsement provides the Planning Commission, the decision maker, with a way to address the potential impact this type of modification to a setback may have to the surrounding area. The proposed amendment to permit more than one zoning district on a parcel provides flexibility in the development of some parcels. Staff finds the proposed amendments meet this policy.

- 3.2.1.d *Recognize the value of low-cost commercial space for supporting small businesses and start-ups.*
- 3.2.1.f *On underutilized property and excess parking areas, provide opportunities for interim uses, such as community gardens and food carts that are appropriate for each plan designation.*
- Update the Temporary Use-Non-Mobile Sales thresholds to address non-residential uses in residential zoning districts.
  - In the multiple use zoning districts, clarify the 15% open area sales limitation does not apply for temporary uses.

The proposed amendment expands the use of Temporary Use-Non-Mobile Sales to allow them associated with legally established non-residential uses in residential zoning districts along Collectors and Arterials. This further allows businesses the opportunity to become established in the City and in some cases to better utilize property that is not consistently being used, such as under-utilized parking areas. Staff finds the proposed amendments meet these policies.

- 3.4.2 b *Recognize planning work done by Washington County when applying city policies and development regulations as annexation occurs.*
- Utilize the CU process to address the Washington County Type I, II, III review for parcels that are zoned Interim Washington County.

The proposed amendment allows the city to effectively process developments within the City where Washington County's land use requirements may still apply, through the Washington County Interim zoning district. Staff finds the proposed amendment meets this policy.

- 3.7.4.a *Limit the scale and type of non-residential uses to ensure compatibility with surrounding neighborhoods.*
- Update Home Occupation thresholds and criteria.
  - Update the Temporary Use-Non-Mobile Sales thresholds to address non-residential uses in residential zoning districts.

The proposed amendment provides the opportunity for limited non-residential uses in a neighborhood by removing barriers for residents to consider a small scale business on certain residentially zoned properties. The proposal allows legally established non-residential uses in residential zones along Collector or Arterial streets to qualify for the Temporary Use-No Mobile Sales process, this would limit the scale of these non-residential activities to limit its impact to the surrounding area. Staff finds the proposed amendments meet this policy.

*3.7.4.e Improve and enhance connections to adjacent neighborhoods to make it easier and more enjoyable for neighbors to walk or bike to the Neighborhood Center.*

- Update minimum standards for sidewalk/ walkway widths from four (4) feet to five (5) feet.

The proposed amendment to increase the minimum standards for sidewalks in Section 60.55 of the Code to 5 feet provides consistency between multiple sections of the Code related to this requirement. The 5-foot width will enhance pedestrian circulation by providing wider area for pedestrians to maneuver. Staff finds the proposed amendment meets the policy.

*3.8.1.c Allow flexibility through lot size averaging and other tools to provide flexibility and housing variety while maintaining an overall density consistent with the Comprehensive Plan designation and zoning.*

- Clarify language related to utilizing lot averaging with Land Division applications and when and Adjustments are sought.

The proposed improvements to the approval criteria for land divisions provide clarity that with the use of lot averaging, the need for and adjustment or variance to the lot size is not needed as the averaging is provided to provide flexibility in the design of these lots. Staff finds the proposed amendment meets the policy.

*3.8.1.f Facilitate development of housing that is affordable to a range of incomes, including low-income households.*

- Update the Accessory Dwelling Units (ADU) standards to comply with state regulations.
- In multiple use zone allow expansion, of up to 10 percent, to existing single-family dwellings.

The proposed amendments to modify the ADU standards and to allow expansion of existing single-family residential dwellings provides the opportunity to create new dwelling units by removing barriers to the development of ADU's and to improve existing housing stock by allowing existing dwellings in multiple use zoning districts to be improved and/or expanded. Staff finds the proposed amendments meets these policies.

*3.9.2.a Provide for a mix of office, industrial and other employment space and complementary uses such as retail, restaurants, hotels, and services to meet the needs of businesses and employees.*

- In Commercial zoning districts, remove the minimum 20-foot front and side yard setbacks abutting streets. Exempt abutting side yard setbacks for commercial parcels that are not abutting residential uses on residentially zoned parcels.

- In the Commercial zoning districts, modify the maximum height to require 35-foot maximum building height for buildings (or the portion of the building) within 50 feet (instead of 100 feet) from the residentially zoned private property line.
- In the commercial zoning districts, exempt recreational facilities from other commercial zoning requirements in Sections 20.10.30, 20.10.35, and 20.10.40.
- Update the Chapter 20 use tables to include meeting facilities in more zoning districts.

The proposed amendments are to provide additional flexibility in the design and functionality of developments within commercial zoning districts while still limiting impacts to adjacent residential zones. The proposed amendment also allows meeting facilities in other zoning district outside of Regional Center zones. These proposed amendment allows the Code to provide for the opportunity for more commercial development in areas that can help support the needs of businesses and employees. Staff finds the proposed amendments meet the needs of this policy.

#### Chapter 4 Housing

To meet the community's housing needs, the city adopted goals and policies that encourage a mix of housing types and densities commensurate with a variety of income levels.

- Update the Accessory Dwelling Units (ADU) standards to comply with state regulations.
- In multiple use zone allow expansion, of up to 10 percent, to existing single-family dwellings.

The proposed amendments to modify the ADU standards and to allow expansion of existing single-family residential dwellings provides the opportunity to create new dwelling units by removing barriers to the development of ADU's and to improve existing housing stock by allowing existing dwellings in multiple use zoning districts to be improved and/or expanded. Staff finds the proposed amendments meets the goals of this chapter and that the proposal will not negatively impact the ability of the City to meet its share of the housing needs.

#### Chapter 6: Transportation

*6.2.1.a Maintain the livability of Beaverton through proper location and design of transportation facilities.*

*6.2.2c Develop and provide a safe, complete, attractive, efficient, and accessible system of pedestrian ways and bicycle ways...*

- Update minimum standards for sidewalk/ walkway widths from four (4) feet to five (5) feet.

The proposed amendment to increase the minimum standards for sidewalks in Section 60.55 of the Code to 5 feet to provide consistency between multiple sections of the Code related to this requirement. The 5-foot width provides additional circulation space

to ensure a safe and efficient pedestrian circulation route and encourage a better design of the transportation facility. Staff finds the proposed amendment meets these policies.

## Chapter 7: Natural Resources

*7.1.1.c Allow for relaxation of development standards to protect significant natural and historic resources. Such standards may include but are not limited to minimum setbacks, maximum building height, minimum street width, location of bicycle, pedestrian and multi-use paths, etc.*

- Consider criteria to allow for modification of grading standards associated with tree protection for both Minor and Major Adjustments.

The proposed amendment includes establishing criteria within the minor and major adjustment applications to allow modification to the grading standards to accommodate tree protection. Providing the opportunity for an adjustment to these standards allows for a development to provide additional protection to a significant natural resource. Staff finds the proposed amendment meets this policy.

## Chapter 8: Environmental Quality and Safety

*8.7.1c Construction within the floodfringe shall be regulated through the City's implementing ordinances, such as the City's Engineering Design Manual and Standard Drawings.*

- Add residential development within the floodway fringe as a threshold for a new conditional use permit to be consistent with Section 60.10.25.25.2 of the Code.

Pursuant to Section 60.10.25.25.2 of the Code non single family detached residential development within the floodway fringe requires a new conditional use. To codify this requirement the proposed amendment includes establishing a threshold for New Conditional Use approvals to comply with this requirement. This threshold would be consistent with the requirement that construction within a floodway is to be regulated. Staff finds that the proposed amendment meets this policy.

## Chapter 10: Community Health (Physical Activity)

*Policy 1. Provide a comprehensive and integrated system of parks, plazas, playgrounds, trails and open space to promote health and social connectedness through physical activity.*

- Update the use chapters of all the zoning districts to address Dog Parks/ Dog Runs and allowing animal care uses in developments that support residential communities.

The proposed amendments to the Code includes updating the use chapter (Chapter 20) to list public dog parks/dog runs as a conditional use in all zoning districts expanding the potential of additional amenities in public parks. The Text Amendment proposes allowing some animal care uses in association with residential development. These

changes provide opportunities for additional uses of public parks in the city and provide the opportunity to improve social connectedness through activities associated with pets. Staff finds that the proposed amendment meets this policy.

**Comprehensive Plan Compliance Summary:** Staff finds that the proposed amendment is consistent with the City's Comprehensive Plan.

**Therefore, staff finds that the text amendment meets the criterion for approval.**

***5. The proposed text amendment is consistent with other provisions within the City's Development Code.***

The text amendment is an opportunity to make periodic corrections, clarification and updates to make the Code more internally consistent and to eliminate or reduce conflict between Code passages. The proposed changes do not create conflicts with other provisions of the Code.

**Therefore, staff finds that the text amendment meets the criterion for approval.**

***6. The proposed amendment is consistent with all applicable City ordinance requirements and regulations.***

The text amendment is an opportunity to make periodic corrections, clarification and updates to make the Code more internally consistent and to eliminate or reduce conflict between Code passages. Staff has not identified any other applicable City ordinance requirements and regulations that would be affected by the proposed changes.

**Therefore, staff finds that the text amendment meets the criterion for approval.**

***7. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.***

Staff have determined that there are no other applications and documents related to the request that will require further City approval.

**Therefore, staff finds that the text amendment meets the criterion for approval.**

### ***Other applicable approval criteria***

As a post-acknowledgement amendment to the City's Code, the proposed text amendment is subject to ORS 197.175(1), which requires that the City demonstrate that the proposed text amendment be consistent with the relevant Statewide Planning Goals. Staff have determined that the following goals apply:

Goal 1 Citizen Involvement: *To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.*

Consistent with procedures outlined in the Code, notice of the proposed text amendment was sent to all NAC chairs, the Chair of the BCCI, Washington County's Department of Land Use and Transportation, and the Department of Land Conservation and Development. Copies of the hearing notice were posted at City Hall and the City Library, and published in the newspaper, consistent with Type 4 noticing requirements. A notice was also posted on the city's website. Staff finds that the City has provided adequate notice and opportunity for public involvement.

Goal 2 Land Use Planning: *To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual basis for such decisions and actions.*

Changes to the Code require a Type 4 review process, which includes noticing and a public comment period, prior to a hearing before the Planning Commission. The hearing is open to the public and includes an opportunity to receive public testimony. At the conclusion of the hearing, the Planning Commission can continue the hearing to a later date, keep the record open for more information or make a recommendation to the City Council, the ultimate decision making authority. Prior to adoption of the any text amendments, the City Council will consider all the evidence in the record, including any testimony provided at the Planning Commission hearing and any recommended changes to the proposal.

Staff finds that the proposed text amendment fits within the established process and framework. Furthermore, the findings contained within this report establish an adequate factual basis for the proposal.

Goal 6 Air, Water and Land Resources Quality: *To maintain and improve the quality of air, water and land resources of the state.*

Staff finds that the proposal will not have a negative impact on the air, water, or land resources quality of the state.

Goal 9 Economy of State: *To diversify and improve the economy of the state.*

Staff finds that the proposal will not have a negative impact on the economy of the state.

Goal 10 Housing: *To provide for the housing needs of the citizens of the state.*

The proposed text amendment is intended to remove barriers to the development of ADU's as allow for expansion of existing single-family dwelling in the multiple-use zoning districts, thereby enhancing the ability of the city to address housing needs. As stated above in response to the Comprehensive Plan Policies relating to housing, staff finds that the proposal will not negatively impact the ability of the City to meet its share of the housing needs.

Goal 11 Public Facilities and Services: *To plan and develop a timely, orderly, and efficient arrangement of public facilities and service to serve as a framework for urban and rural development.*

Staff finds that the proposal will not impair the City's ability to provide the necessary services.

Goal 12 Transportation: *To provide and encourage a safe, convenient and economic transportation system.*

Staff finds that the proposal does not, by itself, authorize any additional development and therefore will not have a negative effect on the transportation system of the City or surrounding area. All future development will be reviewed through the applicable land use review procedures specified in the Code.

Goal 13 Energy Conservation: *To conserve energy.*

Staff finds that the proposed changes to the Code codify current practices and prior Director's Interpretations and determinations. Therefore, the proposed changes will not change the City's ability to conserve energy or promote energy-efficiency measures.

Goal 14 Urbanization: *To provide for an orderly and efficient transition from rural to urban land use.*

Staff finds that the proposal only applies to already urbanized land and therefore does not alter the transition from rural to urban land use.

**State Land Use Goal Compliance Summary:** Therefore, staff finds that the proposed text amendment complies with all of the applicable Statewide Planning Goals.

#### **4. Conclusions**

Based on the facts and findings presented, staff conclude that the proposed amendment to the Code is consistent with all the text amendment approval criteria of Section 40.85.15.1.C.1-7.

#### **5. Staff Recommendation(s)**

Staff offers the following recommendation for the conduct of the October 16, 2019 public hearing for TA2019-0003 (Omnibus Text Amendment):

- A. Conduct the public hearing and receive all public testimony relating to the proposal.
- B. Considering the public testimony and the facts and findings presented in the staff report, deliberate on policy issues and other issues identified by the Commission or the public.
- C. Recommend **APPROVAL** of text amendment application TA2019-0003 (Omnibus Text Amendment) to the City Council.

#### **6. Exhibits**

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| Exhibit A | Modified Development Code Text           |
| Exhibit B | Analysis of Proposed Changes by Chapters |
| Exhibit C | Proposed Development Code                |