



CITY OF BEAVERTON
Planning Division
Community Development Department
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STAFF REPORT

Report date: June 2, 2021

Application/project name: Charter Implementation Text Amendment

Application Numbers: TA2021-0003

Proposal: The City proposes to amend the Beaverton Development Code (BDC) to align with the 2020 City Charter and implement the new procedure for ordinance review. The proposal affects Development Code Chapters 10, 40, 50, 60, and 90.

Proposal location: Citywide

Applicant: City of Beaverton

Recommendation: Recommend APPROVAL of TA2021-0003 to City Council

Hearing information: 6:30 p.m. June 9, 2021, online and at City Hall, 12725 SW Millikan Way. See options for viewing meeting and providing testimony at: [Beaverton, OR - Official Website \(beavertonoregon.gov\)](http://beavertonoregon.gov)

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None Received

Exhibit 1.1 Text Amendment Background and Summary

In May 2020 Beaverton voters approved a new City Charter, which took effect in January 2021. Three aspects of the new Charter require changes to the Beaverton Development Code (BDC): the creation and definition of the City Manager role, updating the role of the Mayor, and implementing the requirement that the City Council conduct a Public Hearing for any proposed ordinance.

In addition to BDC changes directly implementing the new Charter, the proposed text amendment includes additional clarification of the procedures in the BDC for Type 4 Land Use Applications that will be considered by City Council as ordinances and miscellaneous minor amendments for clarity and consistency. A Type 4 procedure typically involves the legislative adoption, implementation or amendment of a policy or law by ordinance. This includes amendments to the text of the zoning ordinance, zoning map, or comprehensive plan. All Type 4 Land Use Applications are considered legislative decisions for which Planning Commission makes a recommendation to the City Council and City Council is the decision-making body. The current process also provides for the Planning Commission recommendation to be appealed to City Council. Allowing for appeal of the Planning Commission recommendation, rather than just Council's final decision is awkward and redundant, since it requires City Council to consider both the Planning Commission recommendation and an appeal of that recommendation. Therefore, this proposal includes removing appeal of a Planning Commission recommendation from the procedures for Type 4 Land Use Applications. The final decisions made by City Council will remain eligible for appeal to the State Land Use Board of Appeals, as they are under the current code.

A section-by-section discussion of the proposed text amendment can be found in Exhibit 1.2, while the proposed text can be found in full in Exhibit 1.3.

TA2021-0001 ANALYSIS AND FINDINGS FOR TEXT AMENDMENT

Recommendation: Based on the facts and findings presented below, staff recommends the Planning Commission review the proposal, take public testimony, deliberate on the proposal, and make a recommendation to City Council.

Section 40.85.05 Purpose

The purpose of a Text Amendment application is to provide a mechanism for legislative amendments to the Development Code. It is recognized that such amendments may be necessary from time to time to reflect changing community conditions, needs, and desires, to fulfill regional obligations, and to address changes in the law. This Section is carried out by the approval criteria listed herein.

Section 40.85.15.1.C Approval Criteria:

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 that all the criteria specified in Section 40.85.15.1.C.1-7 are satisfied. The following findings apply to the City's proposed amendment to the BDC to implement the 2020 Beaverton Charter and update the procedures for review of Type 4 applications:

Section 40.85.15.1.C.1

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

FINDING:

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 BDC, excluding changes to the zoning map. Land Use application TA2021-0002 proposes to amend the Development Code to implement the 2020 Beaverton Charter and update the procedures for review of Type 4 applications.

Conclusion: Therefore, staff finds the amendment meets the criterion for approval.

Section 40.85.15.1.C.2

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

FINDING:

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.

Conclusion: Therefore, staff finds the criterion is not applicable to the amendment.

Section 40.85.15.1.C.3

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

FINDING:

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 made of 11 titles. The applicable titles are addressed below:

Title 1: Housing Capacity

This title addresses how cities and counties maintain or increase housing capacity. The proposed amendment updates is primarily procedural and does not affect housing capacity. The amendment does not affect housing capacity and will not impact compliance with this title.

Title 3: Water Quality and Flood Management

This title addresses water uses and resources within water quality and flood management areas. The proposed amendment does not affect water quality and flood management.

Title 7: Housing Choice

This title addresses establishment of affordable housing and methods to encourage affordable housing. The proposed amendment is primarily procedural does not impact housing affordability.

Title 8: Compliance Procedures

Title 8 establishes a process for determining whether city or county comprehensive plans and land use regulations substantially comply with requirements of the Functional

Plan and requires cities to submit proposed comprehensive plan amendments to Metro for their review. Metro requires the city to submit the proposed amendment to Metro at least 35 days before the first evidentiary hearing, which is the Planning Commission hearing. The city provided the notice on May 5, 2021, more than 35 days before the Planning Commission hearing. The city has not received any comments from Metro. The proposed amendment complies with this title.

Title 12: Protection of Residential Neighborhoods

This title protects existing neighborhoods and ensures adequate level of public services are provided. The amendment does not affect the protection of residential or provision of public services and will not impact compliance with this title.

Title 13: Nature in Neighborhoods

This title addresses conservation of streamside corridor systems. The proposed amendment is primarily procedural and does not affect protection of stream corridors and will not impact compliance with this title.

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 to the Code procedural in nature and not in conflict with the UGMFP. Therefore, the proposed text amendment is consistent with the applicable provisions of the UGMFP.

Conclusion: Staff finds that the proposed text amendment is consistent with the applicable provisions of the UGMFP. Therefore, staff finds the amendment meets the criterion for approval.

Section 40.85.15.1.C.4

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

FINDING:

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. The applicable chapters of the Comprehensive Plan are addressed below.

Chapter 2: Community Involvement Element

Goal 1: The Planning Commission, City Council, and other decision making bodies shall use their best efforts to involve the community in the planning process.

Following the procedures outlined in the Development 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.

Chapter 3: Land Use

Goal 3.1.1. Encourage development and land use patterns that support a variety of transportation options

Goal 3.1.1 concerns land use patterns that influence transportation options and choices. The text amendment is primarily procedural in nature and does not affect how the goals and policies of the Comprehensive Plan are implemented with land use designations.

Goal 3.2.1 Provide for thoughtful and strategic infill and redevelopment

Goal 3.2.1. addresses policies for infill and redevelopment. The text amendment primarily procedural in nature. It does not affect standards for infill or redevelopment.

Goal 3.3.1 Promote sustainable development, resilience, and resource protection

Goal 3.3.1 sets policies for development that mitigates and adapts to climate change impacts, reduces energy and resource consumption in buildings, reduces the energy and fossil fuel consumption associated with transportation, connects people to the environment, protects people, anticipates natural events and disasters, and improves the community's ability to prepare for, adapt to, and recover from potential shocks and stresses. The text amendment primarily procedural in nature. The text amendment does not change any development standards or resource standards.

Goal 3.4.1 Provide effective and inclusive planning and development review services

Policies:

a) Ensure that development regulations are consistent with and implement the Comprehensive Plan.

b) Ensure that land use planning, notification, and public involvement procedures and processes are inclusive and provide meaningful opportunities for engagement by all community members.

c) Expand outreach to under-represented populations and increase participation in community activities by posting event and service notices in multiple venues and providing information in multiple languages, consistent with the city's language access practices.

d) Apply zoning districts consistent with Comprehensive Plan policies; applicable Community Plans; adopted Comprehensive Plan designations, as identified in the Comprehensive Plan and zoning district matrix, below; and the following policies.

e) Where a land use approval requires demonstration of consistency with the policies of the Comprehensive Plan, the policies of the adopted Comprehensive Plan designation shall apply, regardless of whether the zone is listed as an implementing zone for the applicable Comprehensive Plan designation.

These findings demonstrate how the text amendment is consistent with the Comprehensive Plan goals and policies, including transparency in decision-making on legislative land use matters by increasing the clarity of the code and ensuring that a public hearing is held prior to the adoption of zoning text amendments and zoning map amendments. This makes opportunities to become involved in the land use process more consistent and effective.

Goal 3.4.2 Coordinate with Washington County on planning for the Urban Planning Area

The text amendment is process oriented and does not impact any plans or coordination for the Urban Planning Area.

Goal 3.5.1 Recognize unique needs of different parts of the city through Community Plans

The text amendment is primarily procedural in nature and does not change any Community Plans.

Goal 3.6.1 Support pedestrian-oriented mixed use areas

Goal 3.6.2 Downtown Regional Center: Create and strengthen a vibrant downtown and central area for Beaverton

Goal 3.6.3 Town Centers: Provide for a compact, integrated mix of uses that creates a complete community and supports walking and biking

Goal 3.6.4 Station Communities: Encourage development and redevelopment around light rail stations that leverages proximity to light rail as an amenity for urban living/working and supports a variety of transportation modes

Goal 3.6.5 Mixed Use Corridor: Promote a mix of residential and commercial uses that complement and serve adjacent neighborhoods in a pedestrian-friendly environment

Goals 3.6.1 through 3.6.5 provide goals and policies for mixed use areas. The text amendment applies city-wide and does not change the comprehensive plan designations or regulations affecting any currently designated mixed use lands.

Goal 3.7.1 Enhanced Commercial Centers and Corridors

Goal 3.7.2 Regional Commercial: Provide suitable locations for commercial uses that serve the broader region and require large sites, significant access and visibility

Goal 3.7.3 Community Commercial: Provide for commercial services that serve the surrounding community, with limited auto-oriented uses

Goal 3.7.4 Neighborhood Center: Provide opportunities for small-scale commercial development that serves adjacent neighborhoods

Goals 3.7.1 through 3.7.4 provide goals and policies for commercial centers and corridors. The text amendment applies city-wide and does not change the comprehensive plan designations or regulations affecting any currently designated commercial use lands.

Goal 3.8.1 Complete and livable Neighborhoods

Goal 3.8.2 Low and Standard Density Neighborhoods: Provide residential neighborhoods that emphasize detached housing and integrate parks, schools, and other community institutions

Goal 3.8.3 Medium and High Density Neighborhoods: Provide for a variety of housing types and higher residential densities in areas with more amenities and transit service

Goals 3.8.1 through 3.8.3 provide goals and policies for neighborhoods, which generally prioritize residential uses and compatible non-residential uses. The text amendment applies city-wide and does not change the comprehensive plan designations or regulations affecting any currently designated neighborhood use lands.

Goal 3.9.1 Successful employment lands

Goal 3.9.2 Employment Areas: Provide desirable locations for mix of office and flexible employment space and complementary uses

Goal 3.9.3 Industrial Areas: Accommodate industrial and manufacturing uses that may conflict with housing and uses that draw the general public

Goals 3.9.1 through 3.9.3 provide goals and policies for employment and industrial areas. The text amendment applies city-wide and does not change the comprehensive plan designations or regulations affecting any currently designated employment or industrial use lands.

Chapter 4: Housing

Goal 4.1.1 Provide an adequate supply of housing to meet future needs

Policies:

h) Provide an efficient, consistent, and reliable development review process

Goal 4.2.1 Provide a variety of housing types that meet the needs and preferences of residents

Goal 4.3.1: Increase the supply of housing in and near Beaverton's Downtown Regional Center

Goal 4.4.1: Encourage the development and preservation of fair and affordable housing

Goal 4.5.1: Ensure that Beaverton continues to be one of the most livable communities in the region

Chapter 4 of the Comprehensive Plan establishes goals and policies to help the city meet the housing needs of current and future residents in a manner consistent with the Comprehensive Plan's major themes - livability, equity, sustainability, and resiliency.

The text amendment primarily procedural in nature, and does not impact the city's ability to meet the housing needs of the community.

Chapter 5: Public Facilities and Services

The goals and policies in Chapter 5 generally address provision of public services, and adequacy of services as it relates to growth and development. These goals and policies are not applicable because they guide public agencies that provide public facilities on how those facilities should be provided or address site design. The text amendment is process oriented and administrative in nature. This amendment does not include changes to any programs or regulations that implement the goals and policies in Chapter 8 and does not address site design or availability of services.

Chapter 6: Transportation

The goals and the policies in Chapter 6 generally address transportation needs, improvements, programming, funding priorities and maintenance. The text amendment does not change the classification of any existing or proposed transportation facility, does not change the standards implementing a functional classification system, does not address the design and use of public streets or manage the right of way, and does not change or require changes to the Transportation System Plan. The goals and policies of Chapter 6 are not affected by the text amendment.

Chapter 7: Natural, Cultural, Historic, Scenic, Energy and Groundwater Resources

The goals and policies in Chapter 7 focus on regulations and programs designed to protect natural, cultural, historic, scenic, energy and groundwater resources. The text amendment is process oriented and administrative in nature, and it does not include any changes to the programs and regulations that implement the resource-protection goals in Chapter 7. The text amendment likewise does not address site design or design standards. For those reasons, the goals and policies in Chapter 7 are not applicable to the text amendment.

Chapter 8: Environmental Quality and Safety

Chapter 8 contains goals and policies intended to protect and maintain the condition of air, water, and land resources and to protect public safety by prohibiting or regulating development of land in hazardous areas or by managing the hazards to protect existing development. The text amendment is process oriented and administrative in nature, and it does include any changes to the environmental quality and safety standards that implement the goals and policies in Chapter 8. Accordingly, the goals and policies in Chapter 8 do not apply to the text amendment.

Chapter 9: Economy

Chapter 9 contains goals and policies that establish approaches to help the city meet its current and future economic development needs in keeping with the Comprehensive Plan's major themes – livability, equity, sustainability and resiliency. The proposed amendment implements the 2020 Beaverton Charter by updating definitions and authority of the City Manager and Mayor, as well as procedures for review of land use applications. The goals and policies of Chapter 9 do not apply.

Chapter 10: Community Health

The goals and policies in Chapter 10 are intended to provide choices to Beaverton residents related to healthy food, physical activity, healthy environment, access to health care, and social safety net. The text amendment is administrative in nature and does not planning decisions and programs regarding community health. For that reason, the goals and policies in Chapter 10 do not apply to the text amendment.

Conclusion: Therefore, staff finds the amendment meets the criterion for approval.

Section 40.85.15.1.C.5

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

FINDING:

The text amendment implements the 2020 Beaverton Charter, including updates to the definitions and authority of the City Manager and Mayor, as well as Type 4 land use procedures. In addition, the text amendment removes the appeal of a Planning Commission recommendation to Council to simplify a redundant process, and updates the description of other procedures for greater clarity. The text amendment does not conflict with any provisions of the code.

Conclusion: Therefore, staff finds the amendment meets the criterion for approval.

Section 40.85.15.1.C.6

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

FINDING:

The text amendment implements the 2020 Beaverton Charter, including updates to the definitions and authority of the City Manager and Mayor, as well as Type 4 land use procedures. In addition, the text amendment removes the appeal of a Planning Commission recommendation to Council to simplify a redundant process, and updates the description of other procedures for greater clarity. The text amendment is consistent with all applicable City ordinance requirements and regulations.

Conclusion: Therefore, staff finds the amendment meets the criterion for approval.

Section 40.85.15.1.C.7

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

FINDING:

There are no other applications or documents related to the text amendment that will require further City approval.

Conclusion: Therefore, staff finds the 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.

FINDING:

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

Consistent with procedures outlined in the BDC, 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. Furthermore, the text amendment itself includes updates to the procedures for review of Type 4 land use applications to require a hearing of any ordinance prior to adoption by city council, which will improve the transparency and predictability of the decision-making process. Therefore, the text amendment is consistent with Goal 1.

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 BDC 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. The findings contained within this report establish an adequate factual basis for the proposal. Therefore, the text amendment is consistent with Goal 2.

Goal 5. Open Space, Scenic and Historic Areas, and Natural Resources. *To protect natural resources and conserve scenic and historic areas and open spaces.*

The text amendment does not involve map changes, and the proposed Code change does not affect current regulations that apply to designated nature resources, scenic and historic areas, or open spaces. The proposed amendment will not have a negative impact on open space, scenic and historic areas, or natural resources. Therefore, the text amendment is consistent with Goal 5.

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

The proposed text amendment will not have a negative impact on the air, water, or land resources quality of the state. Therefore, the text amendment is consistent with Goal 6.

Goal 7. Areas Subject to Natural Disasters and Hazards. *To protect people and property from natural hazards.*

The proposal will not expose people to additional hazards because the text amendment does not include amendments to any programs or regulations that implement floodplain or landslide hazard policies. The text amendment concerns the definition and roles of the City Manager and Mayor in Beaverton and land use review procedural requirements. Floodplain and landslide hazard regulations would continue to apply to any development also subject to the text amendment. Therefore, there is no impact on Goal 7.

Goal 8. Recreational Needs. *To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.*

Goal 8 focuses on the provision of destination resorts. However, it does impose a general obligation on the City to plan for meeting its residents' recreational needs: "(1) in coordination with private enterprise; (2) in appropriate proportions; and (3) in such quantity, quality and locations as is consistent with the availability of the resources to meet such requirements." The text amendment does not affect land designated as open space for recreation use nor development standards or regulations. Therefore, there is no impact on Goal 8.

Goal 9 Economy of State: *To provide adequate opportunities throughout the state for a variety of economic activities vital to health, welfare, and prosperity of Oregon's citizens.*

Goal 9 requires cities to consider economic activities vital to the health, welfare, and prosperity of Oregon's citizens. Comprehensive plans for urban areas are required to include, among other things: an analysis of economic patterns, potentialities, strengths, and deficiencies; policies concerning economic development; and land use maps that provide for at least an adequate supply of sites for a variety of industrial and commercial uses. The Comprehensive Plan demonstrates compliance with Goal 9. Land needs for a variety of industrial and commercial uses are identified in the 2015 Economic Opportunities Analysis (EOA).

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

Beaverton's Housing Needs Analysis (HNA) was published in October 2015. It demonstrated a need for all housing types in the 20-year period ending in 2035. This was true both for the current Beaverton city limits as well as the city limits plus the assumed urban service area, which is an area where it is assumed Beaverton will provide governance in the future. The state Department of Land Conservation and Development (DLCD) found it to be consistent with the requirements of Statewide Planning Goal 10.

Based on the findings in Beaverton's Housing Strategies Report in Volume II of the Comprehensive Plan, which includes the city's Buildable Lands Inventory and Housing Needs Analysis, Beaverton updated its Comprehensive Plan's Housing Element and Land Use Element to address the identified housing needs. DLCD also found these Comprehensive Plan changes consistent with the Statewide Planning Goals.

The proposed text amendment concerns the definition and roles of the City Manager and Mayor in Beaverton and land use review procedural requirements. As stated above in response to the goals and policies in Chapter 4 (Housing) of the Comprehensive Plan, 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.*

Statewide Planning Goal 11, Public Facilities, requires cities to adopt and update public facilities plans. Public facilities plans ensure that urban development is guided and supported by types and levels of water, sewer and transportation facilities appropriate for the needs and requirements of the urban areas to be serviced, and that those facilities and services are provided in a timely, orderly and efficient arrangement. As noted above in response to the goals and policies in Chapter 5 (Public Facilities and Services) of the Comprehensive Plan, 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.*

The text amendment 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. As stated above, the proposal is consistent with the goals and policies in Chapter 6 (Transportation) of the Comprehensive Plan.

Goal 13 Energy Conservation: *To conserve energy.*

The proposed text amendment does not adopt or amend a local energy policy or implementing provision. The text amendment concerns the definition and roles of the City Manager and Mayor in Beaverton and land use review procedural requirements. The amendment does not change any site or building development standards. The proposed amendment is consistent with this goal as it does not change the policy or intent of any of the existing regulations pertaining to energy conservation. Staff finds that 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. The proposed text amendment is consistent with this goal as it does not change the policy or intent of any of the existing regulations pertaining to urbanization.

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

Conclusion: Therefore, staff finds the criterion is met.

Conclusion and Recommendation

Based on the facts and findings presented, staff offers the following recommendation for the conduct of the June 9, 2021 public hearing for TA2021-0003 Charter Implementation 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 TA2021-0003 Charter Implementation Text Amendment to the City Council.