

**CITY OF TROUTDALE  
STAFF REPORT**

**TO:** Planning Commission

**STAFF REPORT DATE:** Wednesday, November 2, 2016

**STAFF:** Steven A. Sparks, AICP

**SUBJECT:** **Comprehensive Development Code Update**

**REQUEST:** The City is proposing a comprehensive update to the Troutdale Development Code. All chapters of the Code will be affected. The intent of the text amendment is to streamline and clarify Development Code regulations and processes.

**APPLICANT:** City of Troutdale Planning Department

**APPLICABLE CRITERIA:** Development Code Section 15.050.A.1-4 (Approval Criteria - Text Amendment)

**HEARING DATE:** Wednesday, November 9, 2016

**RECOMMENDATION:** Staff recommend the Planning Commission review the proposal, open the public hearing, and recommend approval of the proposed text amendment to the City Council.

**1. Background**

The Troutdale Planning Commission has conducted a series of work sessions over the past to years to discuss the provisions of the Troutdale Development Code. The goal of the work sessions were to identify potential amendments to the Development Code that would improve the processes by which development is considered, improve the clarity of the Development Code provisions, and update the Development Code to reflect current uses and community expectations. The Planning Commission concluded its work session reviews of the Development Code in September 2016.

The Planning Commission conducted its initial public hearing on the proposed changes to the Development Code chapters at the October 19, 2016 public hearing. No public testimony was received at that hearing; however, the Planning Commission did continue the public hearing on the proposed amendments to the November 9, 2016 meeting. At the October 19, 2016 hearing, the Commission identified a number of changes to and questions on the proposed amendments.

## 2. Planning Commission Changes / Questions

The proposed Development Code text is attached in Exhibit A. The specific amendments are not identified by highlight or strikeout because of the extent of some of the amendments, the most which can be considered to be reformatting changes. The proposal is a comprehensive update to the Development Code; however, many portions of the Code remain the same as the existing Code. The following text is a summary of the changes that have been made after the October 19, 2016 Commission hearing. Minor formatting and editing changes are not noted below.

### Table of Contents

The Table of Contents have been updated to reflect new section names, primarily in Chapter 10 (Signs) and renumbered to reflect changes within the text.

### Chapter 1 - Introductory Provisions

The Commission requested that the general definitions section be amended as follows:

- Remove “to alight and board” from Bus Stop.
- Possibly adding a reference to the Oregon Revised Statute numbering to the Marijuana Processor definition. Staff recommend that adding a reference will not be necessary nor helpful. The City’s definition is better than the ORS definition.
- Staff note that the Marijuana Facilities definition needs to be revised to reflect the changes to the Code allowing recreational marijuana. The following is the revised definitions which is also in Chapter 1:

Marijuana Facilities. ~~A facility registered with the Oregon Health Authority under ORS 475.314 and OAR 333-008-1050, A marijuana producer, marijuana retailer, marijuana wholesaler, medical marijuana dispensary, or marijuana grow site as those terms are defined under ORS 475B.015 and ORS 475B.410,~~ but not including a Marijuana Processor, as defined by this Code.

The first three terms in the definition concern recreational marijuana. A dispensary is a medical marijuana retailer and a grow site is a medical grow (a recreational grow is a marijuana producer). The two different ORS cites are there because medical and recreational marijuana are in different sections with different definitions.

- Definitions for Commercial Amusement, Retail and Service uses were also added in order to reduce the list of use examples in Chapter 3 (Zoning Districts)
- Add a definition of Signs and refer readers of the Code to sign definitions in Chapter 10 (Signs)

## **Chapter 2 - Procedures for Decision Making**

The October 12, 2016 staff report incorrectly noted that the current Type II and Type III noticing standard was 300 feet. In fact, the current noticing standard is to property owners within 250 feet of an application site. The proposed code contains a noticing standard of 250 feet for Type II applications and 500 feet for Type III applications.

## **Chapter 3 - Zoning Districts**

Changes to the list of uses in the Commercial and Industrial zoning districts were made consistent with the changes made in the general definitions section of Chapter 1 (Introductory Provisions).

## **Chapter 4 - Zoning District Overlays**

Staff have identified the text added by the Planning Commission concerning the Vegetation Corridor and Slope District (VECO) as problematic and should be deleted from the proposed text. Specifically, Section 4.311.A.3.C lists the following exception from the VECO standards:

“Properties within the City that are located within an area south or west of the Historic Columbia River Highway, east of 257th Avenue, and north of SE Stark Street, shall be excluded from the standards in Sections 4.310-4.316 of this Chapter. The exclusion is limited to Commercial and Residential zoned properties only, and does not apply to any property designated as park, greenway, canyon, or open space. Development or redevelopment on any lot within this area shall still be subject to all other applicable development standards of this Code.”

The proposed exemption contradicts the riparian area management measures to which the City has committed in its NPDES MS4 Phase II stormwater permit and Sandy River Total Maximum Daily Load (TMDL) Plan approved by DEQ under the Clean Water Act. Implementation of this text would render the City non-compliant with its permit and approved TMDL plan, particularly as no findings are evident that this text will not diminish the City’s riparian area protections.

This language essentially excludes a large portion of the City within the Sandy River watershed from the Vegetation Corridor standards. The City of Troutdale was named as a Designated Management Agency by the Department of Environmental Quality in the 2005 Sandy River TMDL. This designation required the City to develop an implementation plan identifying strategies to improve water quality in the watershed. The Sandy River is water quality limited for bacteria and temperature. Riparian area management, protection, and preservation are identified strategies in the City’s implementation plan through implementation of TDC 4.300. The proposed exception removes a majority of property from the Vegetation Corridor Standards. Those standards are important for not only protection of the vegetation that provides habitat for fish and

wildlife and shade for the stream, but also for the protection against installation of septic systems adjacent to waterways. In addition to the Sandy River TMDL implementation, portions of this area along Beaver Creek and the Sandy River are identified by Metro Title 3 and Title 13 standards.

Staff also recommend the following modification to Section 4.314.A.1:

Replace the "Technical Guidance Handbook, Erosion Prevention and Sediment Control Plans, by the City of Portland Bureau of Environmental Services and Clean Water Services Washington County" with "Construction Standards for Public Works Facilities".

The Technical Guidance Handbook no longer exists.

Lastly, staff recommend removing "administered by the City" from the end of the paragraph of section 4.314.A.2. Staff is reviewing the City's agreement with DEQ for administration of the NPDES 1200C program and may recommend to not continue to administer that program for DEQ.

## **Chapter 5 - Miscellaneous Uses, Standards, and Exceptions**

Staff recommend deleting Section 5.720.A. The reference contained in the text incorporates the current edition of the Portland Stormwater Management Manual. The City currently reference the 2014 edition of the PSWMM, not the 2016 version through interim changes of the City's Construction Standards. Additionally, staff are exploring the option to develop an East County manual, if the NPDES Phase II permit requirements allow the City to do so. Section 5.720.B references the Construction Standards for Public Works Facilities. Staff find that this reference is adequate for reference materials and removes the potential conflicts between the development code and construction standards. Lastly, staff recommend that Section 5.730 be added to the proposed Code. This text is currently contained in the existing Development Code and will ensure that future development applicants understand that water quality standards are applicable to new development.

## **Chapter 6 - Applications**

An introductory paragraph for the Chapter was added to the text as requested by the Planning Commission.

Text concerning compliance and maintenance were added to Section 6.900 (Site Development Review) from the existing Development Code pursuant to Planning Commission request.

## **Chapter 7 - Land Divisions and Lot Line Adjustments**

Engineering staff identified several reference corrections to make in Chapter 7. The changes include providing reference to the City's Capital Improvement Plan (CIP) document.

Staff have also proposed revisions to Section 7.160 of the Development Code. Engineering staff have requested that this section be removed from the proposed Code due to the potential for new development to build contrary to preliminary plat approval, failure to complete conditions of approval including public improvements, or to sell land without recording the land division plat. State Statute prohibits the sale of land in a land division until such time as the plat has been recorded. Staff have revised the text to include an option wherein the City's Planning Director, Public Works Director, and Building Official all approve a plan to allow early building permit issuance provided that conditions of approval and public improvements are guaranteed.

## **Chapter 8 - Site Orientation and Design Standards**

No changes made since the October 19, 2016 Planning Commission meeting.

## **Chapter 9 - Off Street Parking and Loading**

The parking requirement for the use "Sorority, fraternity, or dormitory" was removed pursuant to the Planning Commission direction.

## **Chapter 10 - Signs**

No changes made since the October 19, 2016 Planning Commission meeting.

## **Chapter 11 - Landscaping and Screening**

No changes made since the October 19, 2016 Planning Commission meeting.

## **Chapter 15 - Amendments**

No changes made since the October 19, 2016 Planning Commission meeting.

## **Chapter 17 - General Provisions**

Upon Planning Commission direction, staff reviewed the Planning Commission work session history on the Development Code Update project and discovered that the Planning Commission had proposed minor edits to Chapter 17 (General Provisions).

Staff propose to modify Section 17.020 (Interpretation) to make clear that the final authority on Code interpretations is the City Council. Also, staff propose a reference to the new Director's Interpretation application for written interpretations.

Another amendment identified during the Planning Commission's work session process was to add a section addressing the effect of the Code on other laws and ordinance s. Finally, another proposed amendment to Chapter 17 is to simplify the provisions for violating the regulations of the Development Code.

### **3. Facts and Findings**

Section 15.050.A of the Development Code specifies that in order to approve a Text Amendment application, the decision-making authority shall make findings of fact, that all of the criteria specified in Section 15.050.A.1-4 are satisfied. The staff report dated October 12, 2016 contains staff recommended findings for the proposed comprehensive update of the City of Troutdale Development Code. Staff do not offer any additional recommended findings except to clarify the following finding for Criterion 4. The revised finding is as follows:

Comprehensive Land Use Plan Goal 1 - Citizen Involvement

*Policy 2. Keep the public informed of land development proposals occurring in their neighborhoods*

Noticing requirements for development are proposed to be increased for Type III land use applications from 250 feet to 500 feet from the property subject to the development proposal. This proposed change within the body of the larger text amendment will enhance the public's knowledge of development proposals in the community.

Based on the facts and findings presented in the October 12, 2016 staff report and as supplemented by the November 2, 2016 staff report, staff conclude that the proposed amendments to the Development Code are consistent with all the text amendment approval criteria of Section 15.050.A.1-4.

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

Staff offer the following recommendations for the conduct of the November 9, 2016 public hearing for the proposed comprehensive update of the City's Development Code:

- A. Conduct a public hearing and receive all public testimony relating to the proposal.
- B. Consider the public testimony and the facts and findings presented in the staff report and deliberate on policy issues and other issues identified by the Commission or the public.
- C. Recommend approval of the proposed text amendment to the City Council for its consideration on the next available Council agenda.

## 5. Exhibits

Exhibit A Proposed Development Code text.