

ARTICLE 8 SPECIAL USES

SECTION 8.0100 SPECIAL USE REVIEW

General

8.0101 Purpose

8.0102 Applicability

8.0103 General Standards

8.0110 Special Use Review, Type II Procedure

8.0111 Purpose and Review

8.0112 Applicability of the Type II Procedure

8.0113 Bed and Breakfast Facilities

8.0114 Elderly Housing

8.0115 Civic Uses

8.0116 Community Services

8.0117 Parks, Open Spaces, and Trails

8.0118 Religious Institutions

8.0119 Schools

8.0120 Heliports

8.0121 Major Basic Utilities

8.0122 Wireless Communications Facilities

8.0123 Solar Energy Systems

8.0124 Wind Energy Systems

8.0125 Biomass Energy Systems

8.0126 Geothermal Energy Systems

8.0140 Special Use Review, Type III Procedure

8.0141 Purpose

8.0142 Applicability of the Type III Procedure

8.0143 Criteria

8.0144 Major Event Entertainment

8.0145 Waste Management

8.0146 Medical Uses

8.0147 Parks, Open Spaces, and Trails

8.0148 Religious Institutions

8.0149 Schools

8.0150 Basic Utilities

8.0151 Wireless Communication Facilities in the GBSV District

8.0160 Modifications of a Special Use

Special Use Review, Generally

8.0101 Purpose

The purpose of the Special Use Review section is to provide a method for evaluating uses that may be compatible in an underlying land use district, provide beneficial services, and serve important public interests, but require case-by-case review because of their size, operation, uniqueness, impact, or other characteristic. These uses are subject to the regulations in this section because they may, but do not necessarily, result in significant impacts upon the surrounding area, neighborhood, environment, or public facilities. This section provides the procedures under which uses subject to the Special Use Review process may be permitted, modified, enlarged or intensified.

Special use reviews are reviewed through a Type II or Type III procedure. Those uses that have a broader public interest or impact are reviewed through the Type III procedure. Both review procedures provide an opportunity to allow the use when there are minimal impacts, to allow the use but impose mitigation measures to address identified concerns, or to deny the use if concerns cannot be resolved.

Approval of a Special Use Review shall not constitute a change in the land use district and shall be granted only for the specific use approved at the specific site. Approval is subject to such modifications, conditions, and restrictions as may be deemed appropriate by the review authority.

8.0102 Applicability

Uses that require a Special Use Review and are subject to the regulations of this section are stated in the use tables in **Article 4** that apply to the site, or in the Land Use Classification System found in **Section 3.0200**. This includes the permitting of a new use subject to this section and the modification, enlargement, or intensification of an existing use subject to this section. **Section 8.0112** highlights uses subject to the Type II procedure. **Section 8.0142** highlights uses subject to the Type III procedure.

Over time, Development Code regulations applicable to a specific site may change. This may be a result of changes to the content of the regulations for a specific district or from a change to the Community Plan Map. After one of these changes, if an existing use was allowed outright, approved through the Community Service Use or Special Use Review, or was a nonconforming use and is now subject to the Special Use Review, the use is considered de facto approved and may continue to operate. Any modifications to the use are subject to the procedures in this section, and shall be reviewed through the Type II procedure.

When a proposed use is located on a site that is in more than one land use district, and the proposed use is subject to a Special Use Review in one district and an allowed or limited use in the other, the proposal shall be subject to Special Use Review.

8.0103 General Standards

An applicant for a Special Use Review shall provide a narrative that describes how the proposed use fulfills the applicable requirements and standards for the use and for those found in **Article 7, Section 8.0100**, the applicable plan district(s) for the site, and other applicable Code sections. In order to minimize adverse impacts of the proposed use, an approval of a Special Use Review may be conditioned based upon information provided in the narrative and staff findings.

For purposes of the Special Use Review, the narrative shall describe the following, as applicable:

1. The proposed use and its operations;
2. Traffic generation;
3. Location of parking and loading, including size, location, screening, drainage, landscaping, and surfacing;
4. Any effects on off-site parking;
5. Street access points, including size, number, location and/or design;
6. Hours of operation, including when certain activities are proposed to occur;
7. Crime prevention measures;
8. Noxious odors;
9. Lighting;
10. Effects on air and water quality;
11. Environmental effects which may disturb neighboring property owners such as:
 - a. Glare. This may be described in terms of location, design, intensity and shielding;
 - b. Noise;
 - c. Dust; and
 - d. Vibration;
12. Height, size, setback, and location of buildings and activities;
13. Any diking, berms, screening or landscaping, and standards for their installation and maintenance; and
14. Other resources. This description shall include information on protection and preservation of existing trees, vegetation, water resources, habitat areas, drainage areas, historic resources, cultural resources, sensitive lands, or other significant natural resource.

8.0110 Special Use Review, Type II Procedure

8.0111 Purpose and Review

A Type II procedure may be used to review certain uses subject to a Special Use Review. The review provides an opportunity to allow a use when there are minimal impacts, to allow the use but impose mitigation measures to address identified concerns, or to deny the use if the concerns cannot be resolved.

This review considers general standards found in **Section 8.0103**, standards specific to the use found in **Sections 8.0113-8.0122** and other Development Code standards which are applicable to the proposal. The criteria and standards set forth in this section apply only when the particular use is subject to a Special Use Review in the underlying land use district. The narrative for Special Use Reviews through the Type II procedure shall describe how the operating and physical characteristics of the proposal have been made reasonably compatible with and have a minimal impact on livability, appropriate use, and development of properties in the surrounding area of the subject site.

8.0112 Applicability of the Type II Procedure

The following uses may pursue a Special Use Review through the Type II procedure when they are specified as being subject to a Special Use Review in **Article 4** or in the Land Use Classification System found in **Section 3.0200**.

- A. Bed and Breakfast Inns (**Section 8.0113**)

- B. Attached Dwellings on a Single Lot, limited to transitional housing for individuals transitioning from incarceration facilities.
- C. Elderly Housing (**Section 8.0114**)
- D. Daycare Facilities
- E. Civic Uses, limited to police stations, fire stations, and other similar emergency service facilities (**Section 8.0115**)
- F. Community Services (**Section 8.0116**)
- G. Parks, Open Spaces, Trails and Paths, limited to public neighborhood parks; public urban plazas; and public trails and paths and associated trail access points (**Section 8.0117**)
- H. Religious Institutions, limited to those where the principal place of assembly may accommodate no more than 300 individuals (**Section 8.0118**)
- I. Schools, limited to elementary and middle schools (**Section 8.0119**)
- J. Heliport Facilities (**Section 8.0120**)
- K. Major Basic Utilities, excluding electrical generating facilities (**Section 8.0121**)
- L. Wireless Communication Facilities (**Section 8.0122**)
- M. Renewable Energy Systems including:
 - Solar Energy Systems (**Section 8.0123**)
 - Wind Energy Systems (**Section 8.0124**)
 - Biomass Energy Systems (**Section 8.0125**)
 - Geothermal Energy Systems (**Section 8.0126**)

8.0113 Bed and Breakfast Facilities

In addition to the standards in **Section 8.0103**, the following apply to bed and breakfast facilities where they are allowed through the Type II Special Use Review procedure:

- A. The structure used for a bed and breakfast facility shall be designed for and occupied as a single-family detached dwelling. The structure shall maintain the characteristics of a single-family detached dwelling. The structure must have been occupied for at least five years of its life as a single-family detached dwelling before a bed and breakfast facility is allowed.
- B. All residences used for a bed and breakfast facility shall be occupied as the primary residence of the applicant who operates the facility. The facility must be an accessory use to the primary residential use.
- C. A maximum of four sleeping rooms shall be made available for guest occupancy.
- D. A minimum of one on-site parking space shall be provided for each bed and breakfast guest sleeping room. In addition, parking standards normally required for a single-family detached dwelling apply. Guest parking shall not be allowed in a required front yard.
- E. One on-premise sign shall be permitted. The sign shall be non-illuminated and shall not exceed 6 square feet of face area and 3 feet in height above grade.
- F. The duration of each guest's stay at the bed and breakfast facility shall be limited to no more than 30 consecutive days.
- G. All bed and breakfast facilities shall be inspected and approved by the City Building Official and Fire Prevention Officer prior to the issuance of an occupancy permit. The facility shall conform to the requirements of the applicable Building, Specialty, Fire and other Codes. Only rooms designed as sleeping rooms shall be used for guest rooms. Each guest room shall be protected by a smoke detector.
- H. Bed and breakfast facilities shall obtain and maintain a City Business License and are subject to the City Transient Lodging Tax. Bed and breakfast facilities shall obtain and maintain all applicable licenses and permits required by the State of Oregon.

- I. If a bed and breakfast facility is not established within one year of the development permit approval date, or if the use of the residence as a bed and breakfast facility lapses for over one year, the development permit shall automatically expire and a new application will be required.
- J. If the bed and breakfast facility is found to be in violation of the standards and requirements of this section, the Manager, pursuant to the Type II procedure, may revoke its development permit.

8.0114 Elderly Housing

In addition to the standards in **Section 8.0103**, the following apply to elderly housing where it is allowed through the Type II Special Use Review procedure:

- A. Elderly housing shall meet at least one of the following standards:
 - 1. Be located in the Station Center District; or
 - 2. Be located in the Downtown Plan District; or
 - 3. Be located in the Rockwood Town Center District; or
 - 4. Be located in the Civic Neighborhood Plan District; or
 - 5. Be located in the Townhouse Residential – Springwater District; or
 - 6. Have frontage on a Transit Street or a Transit Route;* or
 - 7. Be within 1,000 feet walking distance of a transit facility and have direct access to a street with a functional classification of minor arterial or greater. For the purposes of this section, a transit facility includes a light rail transit station, a park and ride lot for transit riders, a transit center, or a transit stop and their transit improvements, including a bus stop.

*The following properties zoned MDR-12, MDR-24 and OFR meet the transit street or transit route standard:

- Those fronting Palmquist between Regner Road and Hogan Drive
- Those within the borders of Hogan Drive, Palmquist, Powell and Mt. Hood Highway
- Those fronting Hogan Drive/Road
- Those fronting Cleveland Avenue between Burnside and Stark
- The MDR-12 lots fronting NE 185th Place north of Glisan Street

- B. Elderly housing shall meet the minimum density, if any, of the underlying land use district and shall not exceed a maximum of 62 living units per acre in all other land use districts or the maximum allowed in the land use district, whichever is greater.

8.0115 Civic Uses

In addition to the standards in **Section 8.0103**, the following apply to Civic Uses located in a residentially designated land use district and allowed through the Type II Special Use Review procedure:

- A. Civic uses shall have direct access to a street with a functional classification of minor arterial or greater.

8.0116 Community Services

In addition to the standards in **Section 8.0103**, the following apply to Community Services where they are allowed through the Type II Special Use Review procedure:

- A. Cemeteries are exempt from floor area ratio and maximum setback requirements.
- B. New cemeteries are prohibited in the GBSV District.

8.0117 Parks, Open Spaces, and Trails

In addition to the standards in **Section 8.0103**, the following apply to Parks, Open Spaces, and Trails, limited to public neighborhood parks; public urban plazas; and public trails and paths and associated trail access points and trailheads where they are allowed through the Type II Special Use Review procedure:

- A.** Exemptions.
 - 1.** Open spaces are exempt from a Special Use Review.
 - 2.** Those public trails and paths that pursuant to **Section 11.0102(E)(1)** do not require a Development Permit are exempt from the standards of this section.
- B.** All Parks, Open Spaces and Trails and Path uses are exempt from floor area ratio and maximum setback requirements.
- C.** For Paths, Trails, Access Points and Trailheads:
 - 1.** The applicant shall provide a narrative and plans that demonstrate the consistency of the proposal with applicable district requirements and applicable provisions of the current Paths and Recreation Trails and Natural Areas Master Plan and the Public Works Standards.
 - 2.** If the application includes a surface parking lot it shall be consistent with **Section 9.0823** and any applicable district parking requirements, except that the applicant may prepare an alternative landscaping plan and specifications which meets the intent of the requirement in **Section 9.0823(C)(1), (2) and (3)**.
 - 3.** The Buffering and Screening Requirements of **Section 9.0100** shall apply except in the following situations:
 - a.** Where the proposed paths or trail development is more than 30 feet from an abutting property line; or
 - b.** Where the abutting property is an open space parcel; or
 - c.** Where the proposed paths or trail development abuts a street right-of-way.
 - 4.** When buffering and screening is required, an alternative buffering and screening plan may be submitted for approval. Such alternative plan shall be designed to afford the degree of desired buffering.
 - 5.** The application is exempt from the Site Design Criteria and Standards in Articles 4 and 7 relevant to: landscaping, energy conservation, loading, lighting, mechanical equipment screening and transit design.

8.0118 Religious Institutions

In addition to the standards in **Section 8.0103**, the following apply to Religious Institutions where they are allowed through the Type II Special Use Review procedure:

- A.** The principal place of assembly has seating for no more than 300 persons. Those religious institutions that do not meet this standard shall be reviewed through the Type III procedure.
- B.** Street access: Proposed religious institutions shall have direct access to a street with a functional classification of minor arterial or greater.
- C.** Religious institutions where the principal place of assembly has seating for no more than 100 persons are exempt from a Special Use Review.

8.0119 Schools

In addition to the standards in **Section 8.0103**, the following apply to Schools, including elementary and middle schools, where they are allowed through the Type II Special Use Review procedure:

- A. For all school types, portable classrooms are exempt from floor area ratio, maximum setback requirements, and are not subject to a Special Use Review. They must still obtain a building permit.
- B. Elementary and middle schools are prohibited in the GBSV District.

8.0120 Heliports

In addition to the standards in **Section 8.0103**, the following apply to Heliports where they are allowed through the Type II Special Use Review procedure:

- A. Helicopter landing facilities are exempt from floor area ratio and maximum setback requirements.
- B. The applicant shall provide an acoustical and mitigation plan report that details the design and measures to be taken which will minimize noise impacts to noise sensitive units as defined in Article 7.20. Noise Control Code of the Gresham Revised Code. The report, at a minimum, shall discuss and make recommendations for:
 - 1. Best management practices concerning preferred approach/departure flight paths;
 - 2. Preferred approach/departure path slopes;
 - 3. Preferred approach/departure air speeds;
 - 4. Preferred times of use;
 - 5. Nearby existing natural flight corridors such as freeways and industrial areas that the helicopter landing facility may utilize; and
 - 6. Other relevant factors.

The plan must include a discussion of the existing physical factors, such as topography and proposed physical barriers such as walls, fences, structures or vegetation, and how these factors would be used to reduce noise impacts. The report shall be prepared by a professional consultant experienced in airport noise evaluation and federal and state airport noise standards.

The report shall include the proposed hours of operation; the number, type and size of aircraft to be located at or expected to use the site; maximum number of helicopter trips on a daily, weekly and annual basis, and the purpose of the helicopter trips and an approach/departure flight path plan showing proposed flight path locations, widths, lengths and slopes.

- C. The applicant shall demonstrate that an application has been made to the Oregon Department of Transportation, Aeronautics Section, by submitting a copy of the helicopter application made to OAD which identifies the following: direction, angles, and number of approaches; helipad size and surface; nearby obstructions; lighting and markings; tie-downs; number of trips; location; and fencing.
- D. Minor or emergency repairs and routine maintenance are allowed in all districts.
- E. All storage and repair shall be conducted in enclosed buildings.
- F. All take-off, landing, and parking areas shall be surfaced with a dust proof and gravel free material.
- G. Setbacks. A setback distance of 200 feet shall be required for landing and take-off pads and refueling facilities from abutting Residential Development Districts, Mixed-Use Development Districts and NC District property lines. A setback distance of 50 feet shall be required for landing and take-off areas and refueling facilities from all other abutting property lines. All setback distances will be measured from the edge of the landing pad. This provision does not apply to landing and take-off pads located on top of a building. Other site improvements shall be consistent with the applicable setback yard provisions of the underlying district.

- H. Buffer and Screening. A 20-foot wide landscaped buffer and screening area shall be provided around the landing and take-off pads and refueling facilities. Landscape plantings shall be consistent with the vegetative requirements of the 'C' buffer of **Section 9.0100**. This requirement is in addition to any buffering and screening required by **Section 9.0100** of the Community Development Code. The trees must be located so as to not encroach into an 8 (horizontal) to 1 (vertical) flight path from the landing pad in all directions. This provision does not apply to a helicopter landing facility on top of a building.
- I. Prior to occupancy of an approved helicopter landing facility, the applicant must submit a copy of the Oregon Department of Transportation Aeronautics Section heliport application approval.

8.0121 Major Basic Utilities

In addition to the standards in **Section 8.0103**, the following apply to major basic utilities where they are allowed through the Type II Special Use Review procedure:

- A. Basic utilities are exempt from floor area ratio and maximum setback requirements.
- B. Electrical generating facilities are subject to a Type III Special Use Review procedure.
- C. Sewage treatment plants shall not be located in or adjacent to residentially designated land.
- D. Telephone switching stations,* new water storage reservoirs, major stormwater treatment facilities and substations are prohibited in the GBSV District.
*(Note: This is current code language that may be outdated. A more appropriate term may be Telecommunications Facilities.)
- E. In the GBSV District, existing water storage facilities may be replaced when reviewed under the Type II Special Use Review process if the proposed height of the facility is no greater than the maximum height of the underlying land use district. If the proposed height exceeds the maximum height of the underlying land use district, a request for a Type III Variance to height must also be submitted as part of the application.

8.0122 Wireless Communications Facilities

In addition to the standards in **Section 8.0103**, the following apply to new or replacement wireless communications facilities where allowed through the Type II Special Use Review procedure and the Type III Special Use Review procedure when located in the GBSV District.

- A. An applicant for a wireless communication facility that includes a WCF tower must demonstrate that the proposed facility cannot be feasibly co-located on an existing WCF tower in the service area, in which case the new WCF tower shall be located at the same site as an existing WCF tower or located no closer than 2,000 linear feet from another existing WCF tower.
- B. No wireless communication facility tower shall be located within the LDR-5, LDR-7, TLDR, TR, DRL-1, DLR-2, LDR-PV, MDR-PV, HDR-PV, VLDR-SW, LDR-SW, THR-SW and LDR/GB districts unless such location is absolutely necessary to close a significant gap in coverage and there is no feasible alternative.
- C. For all wireless communication facility proposals that include a WCF tower subject to the Gresham Community Development Code, the WCF tower shall be located at least 200 feet from the nearest residence and must be constructed to allow co-location of additional antenna facilities.
- D. Wireless communications facilities are exempt from floor area ratio and maximum setback requirements.

- E.**
 1. All wireless communication facility proposals for personal wireless services shall be subject to the requirements and limitations of 47 U.S.C. 332(c)(7), Preservation of Local Zoning Authority, and the rules adopted by the Federal Communications Commission to implement said section.
 2. All wireless communication facility proposals shall be subject to the requirements and limitations of 47 U.S.C. 1455(a), Facility Modifications, and the rules adopted by the Federal Communications Commission to implement said section.
 3. In the event of any apparent conflict or inconsistency between the applicable federal laws or rules and **Section 8.0103**, **Section 8.0122**, **Section 10.0601** or **Section 10.0602**, the applicability, and where required, the application of the provisions of federal laws and rules shall be determined as part of the Special Use Review process.
- F.** Wireless Communications Facilities in the GBSV District are governed by the standards in **Section 8.0151**.
- G.** Mini-Micro WCFs subject to the regulations of the Gresham Community Development Code are exempted from the Special Use Review process and are reviewed through the building permit process if they can meet the following standards:
 1. The Mini-Micro WCF shall be located on a rooftop, or if on the side of a building, at least 15 feet above the ground.
 2. The Mini-Micro WCF shall be no more than three cubic feet in size.
 3. The Mini-Micro WCF must be of a color that blends into the structure upon which it is attached.
 4. No signage is allowed, except for signs with standard public safety warnings, contact information or similar signage, or unless signage is required by the Federal Communications Commission (FCC) or other regulatory body with authority to regulate wireless communication facilities.

8.0123 Solar Energy Systems

In addition to the standards in **Section 8.0103**, the following apply to solar energy systems where they are allowed through the Type II Special Use Review procedure:

- A.** Renewable energy systems shall not be located on prominent building façade sections or on any facades or roof visible from the street of any listed landmark in **Table 5.0330** Historic and Cultural Landmarks List, and shall comply with **Section 5.0321**.
- B.** Historic materials and architectural features shall not be removed or damaged with the installation of renewable energy systems per **Section 5.0321** and **Section 5.0323**.
- C.** Visual Impact: In order to determine a potential adverse visual impact, the following shall be considered:
 1. The extent to which the system is visible from the impacted location;
 2. The type, number, height and proximity of existing structures;
 3. The amount of vegetated screening;
 4. The distance of the proposed system from the impacted location; and
 5. The available reasonable alternatives that would allow the facility to function efficiently at an alternate location.

8.0124 Wind Energy Systems

In addition to the standards in **Section 8.0103**, the following apply to wind energy systems where they are allowed through the Type II Special Use Review procedure:

- A.** Renewable energy systems shall not be located on prominent building façade sections or on any facades or roof visible from the street of any listed landmark in **Table 5.0330** Historic and Cultural Landmarks List, and shall comply with **Section 5.0321**.
- B.** Historic materials and architectural features shall not be removed or damaged with the installation of renewable energy systems per **Section 5.0321** and **Section 5.0323**.
- C.** Landscape screening shall be located outside of any fencing surrounding the renewable energy systems or equipment requiring the shrub materials of a Type B buffer per **Section 9.0111(A)**.
- D.** All wind energy system equipment shall be coated in a neutral color or muted tones to minimize the visual impact from the right-of-way, any public park or open space, or historic or cultural resource.
- E.** Visual Impact: In order to determine a potential adverse visual impact, the following shall be considered:
 - 1.** The extent to which the system is visible from the impacted location;
 - 2.** The type, number, height and proximity of existing structures;
 - 3.** The amount of vegetated screening;
 - 4.** The distance of the proposed system from the impacted location; and
 - 5.** The available reasonable alternatives that would allow the facility to function efficiently at an alternate location.

8.0125 Biomass Energy Systems

In addition to the standards in **Section 8.0103**, the following apply to biomass energy systems where they are allowed through the Type II Special Use Review procedure:

- A.** In addition to the setback standards in **Article 4**, biomass energy systems shall be setback a minimum of 300 feet from any residential dwelling and 1,000 feet from a residentially designated district or hospital to minimize any potential negative impacts.
- B.** The Applicant shall identify the specific location, type and number of trips of all anticipated vehicular traffic including delivery of the fuel to the site and export of fuel from the site.
- C.** The biomass energy system shall be secured to prevent unauthorized access.
- D.** All outdoor storage of biomass materials shall be screened from adjacent properties by an eight (8) foot wall.
- E.** Biomass energy systems shall provide a Type E buffer per **Table 9.0111(A)** or an alternate plan per **Section 9.0100**.
- F.** Visual Impact: In order to determine a potential adverse visual impact, the following shall be considered:
 - 1.** The extent to which the system is visible from the impacted location;
 - 2.** The type, number, height and proximity of existing structures;
 - 3.** The amount of vegetated screening;
 - 4.** The distance of the proposed system from the impacted location; and
 - 5.** The available reasonable alternatives that would allow the facility to function efficiently at an alternate location.

8.0126 Geothermal Energy Systems

In addition to the standards in **Section 8.0103**, the following apply to geothermal energy systems where they are allowed through the Type II Special Use Review procedure:

- A. Visual Impact: In order to determine a potential adverse visual impact, the following shall be considered:
 - 1. The extent to which the system is visible from the impacted location;
 - 2. The type, number, height and proximity of existing structures;
 - 3. The amount of vegetated screening;
 - 4. The distance of the proposed system from the impacted location; and
 - 5. The available reasonable alternatives that would allow the facility to function efficiently at an alternate location.

8.0140 Special Use Review, Type III Procedure

8.0141 Purpose

A Type III procedure may be used to review certain uses subject to a Special Use Review. Uses subject to the Type III procedure require the exercise of discretion and judgment, and about which there may be broad public interest. The review provides an opportunity to allow a use when there are minimal impacts, to allow the use but impose mitigation measures to address identified concerns, or to deny the use if the concerns cannot be resolved. The review considers standards found in **Section 8.0103**, standards specific to the use found in **Sections 8.0144-8.0151**, and other Development Code standards which are applicable to the proposal. The criteria and standards set forth in this section apply only when the particular use is subject to a Special Use Review in the underlying land use district. The Hearings Officer is the decision authority for Type III Special Use Reviews unless otherwise noted, or if the proposed use is in a Design District, in which case the Design Commission is the decision authority.

For those Special Use Reviews where the Hearings Officer is the decision authority, appeals are heard by the Planning Commission. For those Special Use Reviews where the Planning Commission is the decision authority, appeals are heard by the City Council. For those Special Use Reviews where the Design Commission is the decision authority, appeals are heard by the City Council.

8.0142 Applicability of the Type III Procedure

The following uses are subject to the Type III Special Use Review procedure:

- A. Commercial Parking
- B. Major Event Entertainment (**Section 8.0144**)
- C. Waste Management (**Section 8.0145**)
- D. Civic Uses, excluding those subject to the Type II procedure
- E. Medical Uses (**Section 8.0146**)
- F. Parks, Open Spaces, and Trails, limited to golf courses, community parks, and regional parks (**Section 8.0147**)

- G.** Religious Institutions, limited to those where the principal place of assembly may accommodate more than 300 individuals (**Section 8.0148**)
- H.** Schools, limited to high schools, community colleges and universities (**Section 8.0149**)
- I.** Major Basic Utilities, limited to electrical generating facilities (**Section 8.0150**)

8.0143 Criteria

- A.** Special Use Reviews through the Type III procedure shall address the standards in **Section 8.0103**, standards specific to the proposed use found in **Sections 8.0144 to 8.0151**, and development standards generally applicable to all uses and developments in the underlying land use district, unless specifically exempted by the provisions of this Section.
- B.** The narrative for Special Use Reviews through the Type III procedures shall describe how the operating and physical characteristics of the proposal have been made reasonably compatible with and have a minimal impact on livability, appropriate use, and development of properties in the surrounding area of the subject site.

8.0144 Major Event Entertainment

In addition to **Section 8.0143**, the following apply to Major Event Entertainment where it is subject to a Type III Special Use Review:

- A.** Major event entertainment shall have direct access to a street with a functional classification of major or standard arterial or greater.
- B.** Unless located in a Design District, the Planning Commission is the decision authority for review. If in a Design District, the Design Commission is the decision authority for review.

8.0145 Waste Management

In addition to **Section 8.0143**, the following apply to Waste Management uses where they are subject to a Type III Special Use Review:

- A.** Solid waste transfer stations, composting facilities, and solid waste landfills shall not be located adjacent to residentially designated land.
- B.** Solid waste transfer stations, composting facilities, and solid waste landfills shall have direct access to a street with a functional classification of major or standard arterial or greater.

8.0146 Medical Uses

In addition to **Section 8.0143**, the following apply to Medical Uses where they are subject to a Type III Special Use Review:

- A.** Hospitals shall have direct access to a street with a functional classification of Arterial or greater.
- B.** Unless in a Design District, the Planning Commission is the decision authority for review. If in a Design District, the Design Commission is the decision authority.

8.0147 Parks, Open Spaces, and Trails

In addition to **Section 8.0143**, the following apply to Parks, Open Spaces, and Trails where they are subject to a Type III Special Use Review:

- A.** All Parks, Open Spaces, and Trails uses are exempt from floor area ratio and maximum setback requirements.
- B.** Golf courses shall have direct access to a street with a functional classification of minor arterial or greater.

8.0148 Religious Institutions

In addition to **Section 8.0143**, the following apply to Religious Institutions where they are subject to a Type III Special Use Review:

- A.** This section is applicable to those religious institutions where the principal place of assembly can accommodate more than 300 individuals.
- B.** Religious institutions shall have direct access to a street with a functional classification of minor arterial or greater.

8.0149 Schools

In addition to **Section 8.0143**, the following apply to Schools where they are subject to a Type III Special Use Review:

- A.** For all school types, portable classrooms are exempt from floor area ratio, maximum building height, and maximum setback requirements.
- B.** High schools shall have direct access to a street with a functional classification of minor arterial or greater.
- C.** Unless in a Design District, the Planning Commission is the decision authority for review. If in a Design District, the Design Commission is the decision authority.

8.0150 Major Basic Utilities

In addition to **Section 8.0143**, the following apply to Major Basic Utilities where they are subject to a Type III Special Use Review:

- A.** Electrical generating facilities shall not be located in or adjacent to residentially designated land.

8.0151 Wireless Communication Facilities in the GBSV District

In addition to **Section 8.0122**, the following apply to Wireless Communication Facilities in the GBSV District:

- A.** The Planning Commission is the decision authority.
- B.** The application must include a study developed by an engineering firm with documented expertise in wireless communications which addresses the following:
 - 1.** Documentation that demonstrates that the facility is necessary to close a significant gap in service coverage.
 - 2.** Documentation that demonstrates that there are no feasible alternatives, including other sites, multiple sites, other facility designs and other technologies that could fulfill the same function as the proposed Wireless Communication Facility.

C. The Wireless Communication Facility shall not be visible from any parcels located outside of the GBSV District. Demonstration of compliance with this standard must be provided as noted in **Section 8.0151.C.1** or **8.0151.C.2**:

1. A site plan and elevations documenting that:
 - a. The Wireless Communication Facility tower is no taller than the existing evergreen canopy as measured from the downslope side, or
 - b. The Wireless Communication Facility tower is topographically screened by its placement behind a hill, is located in a ravine, or is screened by other natural features.
2. Submittal of a photo simulation taken from parcels outside of the GBSV District using 3D Analyst or another program as approved by the Manager accompanied by an analysis of the contrast rating of the proposed Wireless Communication Facility using the Bureau of Land Management's Manual 8431-Visual Resource Contrast Rating or other tool approved by the Manager.

Wireless Communication Facilities must meet the Class I or Class II Objectives found in Appendix 2 of the Bureau of Land Management's Manual 8431-Visual Resource Contrast Rating when the Wireless Communication Facility is observed from viewpoints outside of the GBSV District.

If other tools are used, the analysis of the siting of the Wireless Communication Facility shall determine that, when the Wireless Communication Facility is observed from viewpoints outside the GBSV District:

- a. The existing character of the landscape is preserved. The level of change to the character of Gresham Butte is very low and does not attract attention away from the forested landscape of Gresham Butte, or
 - b. The existing character of the landscape is retained. The level of change is low and changes must blend into the predominant natural features of the landscape.
3. If vegetation used for screening is removed through natural circumstances such as disease or fire, replacement vegetation must be planted within 6 months of the event and be of a species that will grow to an equal or greater size, height, and canopy spread as the vegetation that was removed. Replacement plantings must be a minimum of 2.5 caliper inches for deciduous trees and a minimum of 8 feet in height for evergreen trees.
- D.** All wireless communication facility proposals shall be subject to the requirements and limitations of 47 U.S.C.332(c)(7), Preservation of Local Zoning Authority, and the rules adopted by the Federal Communications Commission to implement said section.
- E.** All wireless communication facility proposals shall be subject to the requirements and limitations of 47 U.S.C.1455(a), Facility Modifications, and the rules adopted by the Federal Communications Commission to implement said section.
- F.** In the event of any apparent conflict or inconsistency between the applicable federal laws or rules and **Section 8.0151**, the applicability, and where required, the application of the provisions of federal laws and rules shall be determined as part of the Special Use Review process.

8.0160 Modifications of a Special Use

- A.** Modifications to a Special Use Review that meet the threshold for Design Review A shall be reviewed through the Design Review A. This includes interior tenant improvements and expansions less than 2,000 square feet.
- B.** All other applications to modify, enlarge or intensify a use approved through the Special Use Review are through a Type II procedure, unless the following statements are true, in which case the Type III procedure shall be used.
 - 1.** The use seeking modification, enlargement or intensification was originally subject to review through a Type III procedure; and
 - 2.** For non-industrial uses, new floor area additions exceeds twenty-five percent of the existing floor area of the entire site or exceeds 10,000 square feet; or
 - 3.** For non-industrial uses, outdoor area additions exceeds twenty-five percent of the existing outdoor area of the entire site or exceeds 10,000 square feet; or
 - 4.** For industrial uses, new floor area additions exceeds twenty-five percent of the existing floor area of the site or exceeds 25,000 square feet.

SECTION 8.0200 EXISTING AND NONCONFORMING USES AND DEVELOPMENT

General

8.0201 Purpose

8.0202 Design Review Standards

Continuation of Nonconforming Situations

8.0210 Nonconforming Situations

8.0211 Legal Nonconforming Situation

Alteration, Enlargement, Expansion, Movement or Replacement of Nonconforming Situations

8.0220 Changes to Nonconforming Uses and Developments

8.0221 Alteration, Enlargement, Expansion, Movement or Replacement of a Nonconforming Development

8.0222 Alteration, Enlargement, Expansion, Movement or Replacement of a Nonconforming Use

Loss of Nonconforming Status

8.0230 Damages to Nonconforming Situations

8.0231 Discontinuation or Vacation of Nonconforming Situations

Special Requirements for Nonconforming Uses in Land Use Districts

8.0240 Nonconforming Uses in Residential Land Use Districts

Process For Establishing Or Altering Nonconforming Situations

8.0250 Documentation of Existing Conditions and Continuance

8.0251 Nonconforming Procedures

General

8.0201 Purpose

It is the intent of the Community Development Code to permit nonconforming uses and developments to continue until they are removed, but not to encourage their perpetuation. It is further the intent of the Code that nonconforming uses and developments shall not be enlarged or moved, nor be used as grounds for adding other structures or uses not permitted elsewhere in the same district, except as specifically provided in this section.

8.0202 Design Review Standards

All design review requests shall comply with all applicable standards in the Community Development Code. Development which only affects a portion of a site shall conform with the applicable standards for that portion of the site where development is proposed. With the exception of industrial development in

industrial land use districts subject to a Design Review A, where non-conforming development exists on part of a site (not being re-developed) compliance with the following standards for the entire developed site is required:

- A. Street facing façade upgrades when located in a Design District with adopted design principles, design guidelines, and design standards.
- B. The screening requirements in **Section 9.0100** - Buffering and Screening, if applicable.
- C. The street tree planting requirements in **Sections 9.1023** and **9.1033**.
- D. The parking lot landscaping requirements in **Section 9.0823(C)(1), (2), (3), and (4)**.
- E. The pedestrian circulation connection requirements in **Section 7.0202(K)** and in **Section 7.0203(G)** for industrial uses.
- F. The bicycle parking requirements in **Section 9.0830** - Parking.
- G. The Carpool /Vanpool requirements in **Section 9.0857**.

The applicant shall not be required to spend more than 10% of project costs on these improvements if they are on that portion of the site not being developed. If full compliance with the above requirements cannot be achieved within the 10% project cost limitation, the applicant shall comply with the above requirements in the order of priority as listed. However, the Manager may vary the listed priority if it is determined that the adjacent neighborhood or the public would be better served by applying a different order of the above standards on a particular site.

Continuation of Nonconforming Situations

8.0210 Nonconforming Situation

Nonconforming situations are created when prior uses, development and structures were developed in compliance with specific land use districts, but are no longer in conformance due to changes to the land use district or changes to the regulations of the Code. Nonconforming situations can be made up of either a nonconforming use or a nonconforming development, which are defined in **Section 3.0100**, Definitions.

8.0211 Legal Nonconforming Situations

Legal non-conforming (“Grandfather”) situations recognize that all uses and developments are not required to conform automatically to changes in the Community Development Code. The following subsections may be considered a legal non-conforming situation:

- A. Except as otherwise provided in this section, any situation lawfully existing prior to the implementation of this development code on August 27, 1992 or subsequent amendments to the development code shall be defined as a legal nonconforming situation and may be continued so long as it remains otherwise lawful.
- B. A lot of record or a parcel of land for which a deed or other instrument dividing the land was recorded with Multnomah County prior to December 16, 1975, or either approved by Multnomah County or recorded prior to July 26, 1979, if annexed after that date, may be occupied by uses as provided in **Article 4** - Land Use Districts of this ordinance.
- C. A pre-existing address that is determined not to conform to current City standards as specified in the Development Code and City of Gresham Street Naming and Property Addressing Guidelines is not considered a legal non-conforming situation and is not allowed to remain, once identified. A non-conforming address or property number is subject to correction upon notice.

Alteration, Enlargement, Expansion, Movement or Replacement of Nonconforming Situations

8.0220 Changes to Nonconforming Uses and Developments

- A. In order to avoid undue hardship, nothing in this section shall require any change in the location, plans, construction, size, or designated use of any building, structure, or part thereof, for which a valid development permit has been granted prior to the enactment of the Community Development Plan.
- B. Where alteration, enlargement, expansion, or movement of a nonconforming use or nonconforming development is permitted, it shall be limited to the lot or parcel on which the original use and/or development was located when the use or development was first established, or to an abutting lot or parcel under the same ownership at the time the nonconforming use or nonconforming development became nonconforming, provided the abutting lot or parcel is contiguous and not separated by right-of-way from the lot or parcel on which the nonconforming use or development is located. If the abutting lot or parcel has a different district designation than the nonconforming use or nonconforming development, alteration, enlargement, expansion or movement of the nonconforming use or nonconforming development onto that lot or parcel shall be permitted only if the use is permitted within that district.
- C. A nonconforming use may be extended throughout any existing parts of a building which were clearly arranged or designed for such use at the time the use became nonconforming.
- D. For any existing structure on the site of a nonconforming use or development, normal maintenance and repairs or replacement of walls, fixtures, wiring, or plumbing shall be performed in a manner not in conflict with the other provisions of this section. Nothing in this section shall be deemed to prevent the strengthening or restoring to a safe condition of any structure or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.
- E. The alteration, enlargement, or moving of a nonconforming use or development shall not increase detrimental effects (i.e. noise, vehicle traffic, vibration, dust, odor, fumes, smoke, or glare) in the surrounding area greater than the effects from the existing use or development generated at the time it became nonconforming. Findings to this effect shall be made by the Manager under the Type II procedure.
- F. The enlargement, moving, or structural alteration of a nonconforming use or development shall not:
 - 1. Place any structure associated with the nonconforming use or development in a different occupancy group as defined by the Building Code.
 - 2. Increase the risk to life or risk of fire hazard of the use or development, or of any structure associated with the use or development, as defined by the Building Code Occupancy Group Classification.
- G. Full conformance with the following requirements and standards of the Community Development Code shall be required in connection with the enlargement or moving of any nonconforming use or development that does not require a design review as per **Section 7.0000**:
 - 1. Public facilities standards of **Section A5.000**, et. seq.;

- 2. Screening and buffering requirements of **Section 9.0100**;
 - 3. The requirements of **Section 8.0202**.
- H.** Full conformance with applicable standards which specify the proportion of the site to be landscaped, shall be achieved in connection with the enlargement or moving of a nonconforming use or development.
 - I.** A legally established nonconforming use may be replaced by another nonconforming use that is deemed to be essentially identical to the legally established nonconforming use under the Type I procedure. An example would be the replacement of a nonconforming hair salon by a barber shop. Any such replacement is subject to compliance with **Sections 8.0220** and **8.0231**.
 - J.** A legally established nonconforming use shall only be replaced by another such use that is deemed substantially similar to the legally established use after review under the Type II procedure. An example would be the replacement of an automotive tire and brake repair facility by an automotive muffler shop. Any such replacement is subject to compliance with **Sections 8.0220** and **8.0231**.
 - K.** An alteration to a nonconforming development that requires a design review as per **Section 7.0000** shall be subject to all current standards with the exception that existing nonconforming structures are allowed to remain in a nonconforming condition. Enlargement of a nonconforming structure is subject to this section and **Section 8.0221**, and to applicable design review standards. New development and structures on a nonconforming development site are subject to all current standards.

8.0221 Alteration, Enlargement, Expansion, Movement or Replacement of a Nonconforming Development

A nonconforming development may be enlarged or moved as authorized by meeting the requirements of this section, following Type II procedures.

- A.** Where a nonconforming development is substandard with respect to setbacks, enlargement or moving of a development which maintains the existing, substandard setback may be permitted, but further encroachment into required setbacks shall not be permitted. Any new development other than enlargement or moving of an existing development feature shall conform with applicable setback requirements for the district in which the site is located. Actions which would cause encroachment into an abutting public street right-of-way shall not be permitted.
- B.** Any portion of a nonconforming development to be relocated on site or enlarged shall be subject to height limits applying to the district in which the development is located except that minimum height standards shall not apply to one-time additions or expansions of non-conforming buildings of no more than 25% and less than 1,000 square feet. In undertaking any enlargement or moving, the development as a whole shall conform with applicable lot coverage standards.
- C.** Where a nonconforming development is substandard with respect to the minimum floor area ratio (FAR), the nonconforming development may be expanded without meeting the minimum FAR standards of the district, provided the expansion has the effect of moving towards and increasing compliance with the FAR standards of the district and not reducing compliance with the FAR standards in the district, and provided the combination of new and old developments are sited so as not to preclude meeting the minimum FAR in the future.

- D. Conformance with applicable minimum lot size, minimum street frontage, and lot dimension requirements shall not be required in connection with the enlargement or moving of a development which is deficient in these areas, provided the Manager finds full conformance with all other provisions of this section.

8.0222 Alteration, Enlargement, Expansion, Movement or Replacement of a Nonconforming Use

Except as provided in **Section 8.0222** and except as provided in **Subsections (F)** and **(G)**, a nonconforming use may be enlarged or moved as authorized by this section, following the Type II procedure.

- A. Buildings associated with a nonconforming use may be enlarged as provided in this section, but shall not be moved. Non-building elements of a nonconforming use, such as off-street parking or outdoor storage areas, may be moved in conformance with provisions of this section.
- B. Except as provided in **Subsections (F)** and **(G)**, a nonconforming use may be permitted to enlarge by no more than 20% of the floor area or land area occupied by the use. Any such enlargement of building area or of land area occupied by a nonconforming use may be permitted one time only during the life of the nonconforming use.
- C. Except for nonconforming single-family dwellings and duplexes (see **Subsection (F)**), and except for nonconforming uses approved through the Special Use Review process (see **Subsection (G)**), any portion of a nonconforming use proposed to be enlarged or moved shall be subject to height, setback, and lot coverage standards applying in the district in which the use is located.
- D. Non-building elements of a nonconforming use may be moved within the same lot or parcel, or within an abutting lot or parcel under the same ownership at the time the use became nonconforming, provided the abutting lot or parcel is contiguous and not separated by right-of-way from the lot or parcel on which the nonconforming use is located. If the abutting lot or parcel has a different district designation than the nonconforming use, movement of the use onto that lot or parcel shall be permitted only if the use is permitted within that district.
- E. Except as provided in **Subsections (F)** and **(G)**, the enlargement or moving of a nonconforming use shall not result in a greater number of structures associated with the use than the number of structures existing prior to the action. Any enlargement of a nonconforming residential use shall not result in an increase in the number of dwelling units on the site.
- F. Under the Type I procedure, a single-family dwelling, or a duplex which is a nonconforming use, may be altered or enlarged any number of times in conformance with standards of **Table 4.0130(D), (E), (H) and (I)** of the Community Development Code. Accessory structures on the same site as nonconforming single-family dwellings and nonconforming duplexes may, under the Type I procedure, be constructed or enlarged in conformance with standards of **Section 10.0200** of the Community Development Code.
- G. A nonconforming institutional use that was once approved through the Community Service Use Review or Special Use Review process or was permitted outright but is now subject to a Special Use Review, and is now a nonconforming use may be altered or enlarged any number of times, subject to provisions of **Section 8.0100**. Where enlargement or alteration of such a use is permitted, it shall be limited to the lot or parcel on which the use is located, or to an abutting lot or parcel under the same ownership at the time the use became nonconforming.

Loss of Nonconforming Status

8.0230 Damages to Nonconforming Situations

- A. Except as provided in **Section 8.0240** when a nonconforming development or a structure on the site of a nonconforming use or where one or more structures on the site of a nonconforming use (other than a nonconforming single-family dwelling) is damaged by fire or other cause beyond the control of the owner, if the estimated cost of repairing the development or structure is more than 80% of its current value, the development or structure may be repaired or reused only in full conformance with all provisions of the Community Development Code for the district in which the site is located.
- B. Except as provided in **Section 8.0240**, a nonconforming single-family dwelling which has been damaged beyond 80% of its current value may be reconstructed, under Type III procedure, provided the cause of damage was beyond the control of the owner.
- C. A nonconforming single-family dwelling may only be intentionally demolished and replaced by a new single-family dwelling if the new structure is permitted by the district in which the site is located and is conforming to all district development standards. A nonconforming single-family dwelling may not be replaced or reconstructed in a district where single-family dwellings are not permitted except as allowed in **Sections 8.0230(A)** and **(B)** above.

8.0231 Discontinuation or Vacation of Nonconforming Situations

When a nonconforming use or development is discontinued or vacated for one year or longer, the site and any structures on the site shall be occupied only by a use or uses which are permitted in the district in which the site is located. For purposes of this subsection, a use shall be considered discontinued or vacated upon the occurrence of the first of any of the following events, as determined by the Manager under the Type II procedure:

- A. The date on which the structure(s) and/or site are vacated;
- B. The date of termination of any lease or contract under which the nonconforming use has occupied the site;
- C. The date when outwardly visible activity associated with the nonconforming use ceases;
- D. The date for which close out billing for water or sewer service for the nonconforming use is requested;
- E. The date on which payment for water or sewer service for the nonconforming use becomes 60 days past due.
- F. The expiration date of a valid City business license that was not renewed.

Special Requirements for Nonconforming Use in Land Use Districts

8.0240 Nonconforming Uses in Residential Land Use Districts

Notwithstanding the provisions of this section, any nonconforming use engaged in manufacturing, processing, storage, sales, or personal or business services which is located in the LDR-5, LDR-7, TLDR, TR, MDR-12, MDR-24, or CMF districts shall be subject to the following limitations:

- A. The detrimental effects of the nonconforming use in the surrounding area due to noise, vehicle traffic, vibration, dust, odor, fumes, smoke, or glare shall not increase beyond the levels existing at

the time of the effective date of this section.

- B.** The hours of operation and number of employees of the nonconforming use shall not increase beyond the hours of operation and number of employees existing at the time of the effective date of this section.
- C.** There shall be no enlargement or moving of the nonconforming use, or any development associated with the use, after the effective date of this section.
- D.** The extent of existing buffering and screening between the nonconforming use and abutting conforming uses shall not be diminished after the effective date of this section.
- E.** Where one or more structures on the site of a nonconforming use is damaged by fire or other cause, and the estimated cost of repairing the damaged structure or structures amounts to more than 50% of the value of all improvements on the site, the nonconforming use shall be terminated. The estimated cost of repair shall be determined by the Manager under the Type II procedure, based on best available information.

Process For Establishing Nonconforming Situations

8.0250 Documentation of Existing Conditions and Continuance

Nonconforming situations must provide evidence indicating the nonconforming situation was allowed when the development code was established and the situation has been continued over time. The Manager, under the Type I procedure, shall review documentation to determine establishment and continuance of lawful nonconforming situations. The following are lists of potentially accepted evidence of allowed and continued nonconforming situations:

- A.** Documentation showing allowed nonconforming situations:
 - 1.** Building, land use, or development permits;
 - 2.** Plan District codes and maps; or
 - 3.** Other documentation accepted by the Manager.
- B.** Documentation showing a nonconforming situation has been continued over time:
 - 1.** Utility Bills;
 - 2.** Income Tax Records;
 - 3.** Business licenses;
 - 4.** Listings in telephone or business directories;
 - 5.** Advertisements in dated publications;
 - 6.** Building, land use, or development permits; or
 - 7.** Other documentation accepted by the Manager.

8.0251 Nonconforming Procedures

- A.** Except as provided in **Section 8.0240**, a nonconforming development or a structure may be permitted to be repaired or reconstructed under Type II procedures following compliance with one of the following subsections:
 - 1.** A nonconforming use that has been damaged due to causes beyond the owner's control if the estimated cost of repairing or reconstructing the development or structure is less than 80% of

its current value. The estimated cost of repair shall be determined by the Manager based on best available information.

2. The owner of the damaged development or structure must obtain a permit to repair or reconstruct within one calendar year of the damage. If the permit is not obtained the development or structure shall conform fully to all provisions of the Community Development Code for the district in which the site is located.
 - a. The proposed repair or reconstruction will not result in a greater degree of noncompliance with the requirements of Community Development Code Standards that existed prior to the damage or destruction.
 - b. If the application for a development permit sought under this section indicates that the owner is proposing enlargement or movement of the damaged development or structure, then **Sections 8.0221** and **8.0222** shall also apply to nonconforming developments and nonconforming uses, respectively.
 - c. The Manager may attach conditions of approval to a development permit issued for this purpose in order to ensure that the degree of noncompliance with requirements of the Gresham Community Development Code will not be increased. Conformance with Design Review requirements may also be required in connection with the enlargement or moving of a nonconforming development, as provided in **Section 7.0000**.
- B.** Except as provided in **Section 8.0240**, a nonconforming single-family dwelling which has been damaged beyond 80% of its current value may be reconstructed, under the Type III procedure, provided the cause of damage was beyond the control of the owner. In seeking a development permit for reconstruction of a damaged or destroyed nonconforming, single-family dwelling, the applicant shall present findings to satisfy the following criteria:
 1. Removal of the dwelling would result in a substantial hardship to its owners or occupants;
 2. Reconstruction of the dwelling would not result in serious conflicts between the dwelling and existing, conforming uses in the area; and
 3. Reconstruction of the dwelling would not seriously interfere with potential development of new, conforming uses on adjacent sites.

SECTION 8.0300

INSTITUTIONAL MASTER PLANS

General

- 8.0301 Purpose
- 8.0302 Applicability
- 8.0303 Review of Institutional Master Plans
- 8.0304 Submittal Requirements
- 8.0305 Duration of Institutional Master Plan Approvals
- 8.0306 Review of Subsequent Developments

Standards

- 8.0310 Approval Criteria
- 8.0311 Subsequent Development Consistency
- 8.0312 Institutional Master Plan Limited Review

General

8.0301 Purpose

The purpose of the Institutional Master Plan process is to promote and facilitate the coordinated development of certain institutional uses; parks; and public multi-use trails through adoption of institutional master plans. This will add long-term predictability concerning development of the institutional master plan areas for the applicants, surrounding neighborhoods and the entire community while allowing for periodic institutional master plan reviews. The Institutional Master Plan process also is intended to streamline and consolidate development review processes, often allowing for lower-level reviews for subsequent developments that are consistent with the institutional master plan.

8.0302 Applicability

- A. The following uses are eligible to apply for an institutional master plan review: hospitals; colleges; high schools; religious institutions; public community and regional parks; and public paths with associated access points and trailheads. The uses must be the primary use on the site or sites. The Institutional Master Plan process is voluntary.
- B. Applications for an institutional master plan may be submitted by applicants described in **Section 11.0201(A)(1)** and may include lots not controlled by the institutional landowner if the lots are eligible to be included consistent with this section and the institution receives written permission from the property owners stating that they consent to be included in the institutional master plan.
- C. Except for public community parks, regional parks and public multi-use paths, minimum site size shall be:
 - 1. 10 acres for an institution on one site.
 - 2. 10 acres total and 5 acres per site for institutions on more than one site.

For the purposes of this section, “site” means all lots eligible to be included in the institutional master plan that are abutting, or lots that are adjacent and separated by any one of the following: public open space, waterways, utility corridors, or public rights of way.

- D. Except for public community and regional parks and public paths, non-abutting sites included in the institutional master plan must be within one-half mile of each other and fully contained within that one-half mile.

8.0303 Review of Institutional Master Plans

- A. Institutional master plans and modifications of approved institutional master plans shall be reviewed as specified in **Table 11.0204**.
- B. An Institutional Master Plan Limited Review shall be required for the first development application once 10 years have passed since the institutional master plan approval (or, if applicable, the final approval) was issued. The applicant shall file for a limited review concurrent with the first development review sought after 10 years has passed. This limited review shall be conducted as specified in **Table 11.0204**.
- C. Other reviews. The Institutional Master Plan review may integrate the following review processes:
 - 1. Determination of allowed uses; and
 - 2. Design review regarding relevant site design elements such as building footprints, landscape areas and parking lot areas. This shall not include building and landscape design; and
 - 3. Modifications and variances, including modifications of Environmentally Sensitive/Restoration Areas or Habitat Conservation Area; and
 - 4. Modifications of conditions of approval on previously approved existing buildings that involve relevant use or site design elements; and
 - 5. Other reviews appropriate for the institutional master plan as determined by the Manager.Reviews that require City Council decisions shall receive those decisions separate from the institutional master plan review.
- D. Institutional master plans reviewed through this subsection shall be subject to the applicable requirements of **Appendix 5.000 - Public Facilities Standards**.
- E. An applicant may request concurrent review of an institutional master plan and subsequent development(s) that rely on the institutional master plan.
- F. Conditions of approval for existing developments that are within the institutional master plan boundary at the time of approval shall be incorporated into the institutional master plan approval, unless the conditions are superseded by the institutional master plan approval.
- G. Modifications of institutional master plans shall be reviewed as specified in **Table 11.0204**. An approved modification does not change the end date for the institutional master plan approval as described in **Section 8.0305**.
- H. If the institutional master plan approval includes conditions that affect the site design elements of the plan, the applicant shall within 120 days submit an application for an Institutional Master Plan Final that includes the compliance with any conditions requiring modifications to the institutional master plan. This final application shall include a narrative description of how the conditions are being met and any drawings or exhibits necessary to review the proposed implementation of the

conditions. If site design elements change, a new site plan shall be submitted. The Institutional Master Plan Final shall be reviewed as specified in Table 11.0204. For an Institutional Master Plan Final, the 20-year approval period shall begin at the end of the Institutional Master Plan Final appeal period.

8.0304 Submittal Requirements

- A.** An application for an institutional master plan shall provide facts and evidence sufficient to enable the approval authority to make a determination in compliance with the criteria set forth in this section, including submittal requirements requested on relevant submittal checklists maintained by the Manager. Submittals shall include but are not limited to relevant information related to uses; boundaries; a site plan; a narrative description of the institutional master plan; proposed phasing; transportation and parking impacts and potential mitigation measures; and information about how the proposed uses and developments comply with Development Code standards. The submittal shall be highly visual.
- B.** The applicant in the submittal shall identify which Development Code standards the application intends to comply with and include in the institutional master plan approval.
- C.** The applicant shall provide conditions of approval related to site design for applicable, previously approved development permits within the institutional master plan boundary.

8.0305 Duration of Institutional Master Plan Approvals

The Institutional Master Plan approval expires 20 years after the appeal period ends on its original approval, or if applicable, the appeal period ends on the Institutional Master Plan Final approval. After 20 years, subsequent development applications shall be reviewed under other applicable sections of the Development Code. Applicants also have the option of applying for another Institutional Master Plan approval if they remain eligible under Development Code provisions at that time.

8.0306 Review of Subsequent Developments

- A.** Subsequent developments shall be reviewed for their consistency with the approved master plan and shall undergo all relevant reviews as listed in **Section 11.0204** of the Development Code, except reviews already completed as part of the institutional master plan approval. These reviews shall be for standards not already approved as part of the institutional master plan approval and shall use the latest Development Code standards, including applicable requirements of **Appendix 5.000 – Public Facilities Standards**. The review shall consider the latest standards related to natural resources, resource delineations and overlay districts, including but not limited to standards for Habitat Conservation Areas, Environmentally Sensitive Resource Areas and the Floodplain Overlay District.
- B.** Subsequent development phases may be implemented in a different order than originally proposed in the institutional master plan phasing as long as the development remains in compliance with Development Code standards, such as those involving parking, landscape area required, stormwater treatment and similar standards.

Standards

8.0310 Approval Criteria

Requests for institutional master plans will be approved if the review body finds that the applicant has shown that the following approval criteria are met:

- A. The institutional master plan demonstrates that the institutional master plan boundary is of a size and shape to accommodate: the proposed uses; all existing and proposed development; and related yards, setbacks, buffers, parking and other required elements (taking into account planned demolitions, if applicable); and
- B. The application meets applicable Development Code standards for all reviews being considered as part of the institutional master plan.

8.0311 Subsequent Development Consistency

A subsequent development is not consistent with the institutional master plan if the development:

- A. Does not comply with conditions of approval, including conditions of approval related to **Section 8.0103**; or
- B. Would increase the institutional master plan boundary to add land not previously inside the boundary; or
- C. Would reduce the institutional master plan boundary in a way that affects a condition of approval or takes the site out of conformance, or further out of conformance, with a development standard; or
- D. Would add, remove or substantially change transportation access points; or
- E. Would substantially change the transportation circulation pattern within 50 feet of the institutional master plan boundary (and inside the boundary); or
- F. Would increase overall development floor area on the site more than 10 percent. For institutional master plans with more than one site, each site shall be considered individually; or
- G. Would increase floor area on any one building:
 - 1. By more than 5,000 square feet if the building was approved in the institutional master plan at 50,000 square feet or less; or
 - 2. By more than 10 percent if the building was approved in the institutional master plan at more than 50,000 square feet; or
- H. Would provide a number of parking spaces lower than the minimum required, higher than the maximum allowed or outside a range approved as part of the institutional master plan; or
- I. Includes uses not approved as part of the institutional master plan; or
- J. Includes any development not approved as part of the institutional master plan within 50 feet of the institutional master plan boundary or any development greater than 5,000 square feet that is 50 feet or more from the institutional master plan boundary.

8.0312 Institutional Master Plan Limited Review

Institutional Master Plan Limited Reviews as described in **Section 8.0303(B)** shall provide a review of certain urban design standards to determine if significant changes to the Development Code have occurred since the institutional master plan was approved. The Manager may require changes to the institutional master plan and/or subsequent developments that rely on the institutional master plan to ensure conformance or increased conformance with the Development Code.

- A.** The urban design review shall include applicable Development Code changes as determined by the Manager regarding:
 - 1.** The amount of building frontage required on public streets; and
 - 2.** The location of parking as it relates to whether it is in front of buildings along streets or to the side or rear of buildings; and
 - 3.** Building orientation, such as whether entries or entry features must face streets; and
 - 4.** Front or side setbacks facing streets; and
 - 5.** Similar urban design elements that affect how the site or sites are experienced from the street.
- B.** In determining whether to require changes to the institutional master plan and/or subsequent developments, the Manager shall consider whether:
 - 1.** The benefit to the City's built environment outweighs the potential negative effects to the institutional master plan and/or subsequent developments and/or the operation of the institution, park or trail; and
 - 2.** The changes substantially reduce negative effects on abutting or adjacent properties and/or substantially improve the urban design of the institutional master plan and/or subsequent developments along public rights of way.

