

Division VIII. – GENERAL STANDARDS

Chapter 16.88

STANDARDS AND PROCEDURES: GENERAL, TEXT AMENDMENTS, COMPREHENSIVE PLAN AMENDMENTS, AND TRANSPORTATION PLANNING

Sections:

- 16.88.010 **Applicability.**
- 16.88.020 **Action on application.**
- 16.88.030 **Applications and fees**
- 16.88.040 **Temporary permits.**
- 16.88.050 **Business license review.**
- 16.88.060 **Council acceptance of dedicated land.**
- 16.88.080 **Administration and enforcement.**
- 16.88.090 **Revocation of conditional use permits and variances.**
- 16.88.100 **Interpretation.**
- 16.88.110 **Penalties and civil remedies.**
- 16.88.120 **Enforcement procedure.**
- 16.88.160 **Public officials**
- 16.88.170 **Amendments to text of title.**
- 16.88.180 **Comprehensive Plan Amendments.**
- 16.88.190 **Conformance with Transportation System Plan and Transportation Planning Rule**

16.88.010 **Applicability.**

The general standards and procedures set out in this chapter apply to the regulations of all sections of this title, except as may be specifically noted. (Ord. 740 10.8.10[part), 1984)

16.88.020 **Action on application.**

A. Any action taken by the commission or council on any application filed pursuant to the requirements of this title shall be based upon findings of fact entered by the commission or council in making the decision. Such findings of fact shall be based upon the standards and criteria listed in the pertinent section of this title and upon such other legal requirements as may exist.

1. It is recognized that the burden of proof on all applications is upon the applicant in terms of justifying the proposal.
2. The scope of the required findings of fact shall vary with the scope of the project such that a major project requires more extensive justification than does a minor project.

(Ord. 740 section 10.8.10(A), 1984; Ord. 981 sections 54 & 55, 1997; Ord. 1080, 2001)

16.88.030 Applications and Fees

Applications for annexations, zone changes, variances, conditional use permits, design review, appeals, other permits or approvals and property divisions initiated by property owners or their agents shall be made in writing and submitted to the City Planner. Each application shall be accompanied by a fee. Said fees shall be set out by resolution approved by the City Council. Fees shall differentiate between various processes and applications and no part of which shall be refunded. (Ord. 850 sections 1 and 2, 1990; Ord. 740 section 10.8.10(B), 1984)

16.88.040 Temporary permits.

The Building Official may issue temporary permits for buildings to be used for a construction office, storage incidental to construction of buildings on the property and for signs advertising a subdivision or tract of land or the lots therein. Such permits shall be issued for a specific time period and shall include a signed statement from the applicant agreeing to remove the structure or sign at the completion of that period. (Ord. 740 section 10.8.10(C), 1984)

16.88.050 Business license review.

Applications for a business license shall be reviewed for compliance with these regulations. The administrative procedure established by the city administrator for review of business license applications shall be followed in order to assure that business operators are made aware of code requirements such as sign regulations, parking standards, and land use regulations. No business license shall be issued until it is found that the proposed business will comply with the requirements of this code. Except, however, that a change in the type of business in an area zoned for industrial use need not meet complete parking requirements unless required to do so as a part of a discretionary hearing process conducted by the commission or City Council. (Ord. 740 section 10.8.10(D), 1984)

16.88.060 Council acceptance of dedicated land.

No property shall be considered to be dedicated to the city unless first accepted as such by the council, or shown as such on a legally recorded subdivision plat which has been signed by the City. The Planning Commission is empowered to accept dedication of land for public street purposes in a subdivision only, with all other dedications being the responsibility of the council. The applicant shall be responsible for furnishing adequate title insurance for any such land to be dedicated, unless this requirement is waived by the council for good cause. (Ord. 740 section 10.8.10(E), 1984; Ord 1237, 2007)

16.88.070

(Ord. 740 section 10.8.10(F), 1984; repealed by Ord. 981 section 12, 1997)

16.88.080 Administration and enforcement.

- A. Purpose. Recognizing the need for fair and impartial administration and the importance of strict enforcement of these regulations, it is the intent of the council in adopting these regulations that all reasonable means of enforcement be utilized and maximum allowable penalties be sought for willful violations.

- B. Duty. It shall be the duty of the City Planner, with assistance from other city staff, to administer and enforce this title. (Ord. 740 section 10.8.20 (A) and (B), 1984)

16.88.090 Revocation of conditional use permits and variances.

(Ord. 740 section 10.8.20(C), 1984; Ord. 955 section 31, 1996; renumber to 16.50.070 and 16.53.030; Ord 1237, 2007)

16.88.100 Interpretation.

The provisions of this title shall be held to be the minimum requirements fulfilling its objectives. (Ord. 740 section 10.8.20(D), 1984)

16.88.110 Penalties and civil remedies.

- A. Unless otherwise provided, a person who knowingly violates this title is punishable upon conviction by a fine of not more than two thousand five hundred dollars. Each day a violation exists is a separate offense and may be punished as such.
- B. When costs (attorney fees, court costs, staff or consultant expenses) are accrued in the enforcement of this title, the city may institute appropriate civil action to recoup the costs from the violators.
- C. In case a building or other structure is, or is proposed to be located, constructed, maintained, repaired, altered, or used in violation of this title, the building or land in violation shall constitute a nuisance, and the city may, as an alternative for enforcing these requirements, institute injunction, mandamus, abatement, or other appropriate proceedings to prevent, enjoin temporarily or permanently, abate, or remove the unlawful location, construction, maintenance, repair, alteration or use.
- D. Individuals who have been victimized by illegal land development practices shall be encouraged to seek civil relief from the developers for any and all costs and inconveniences which they have suffered as a result of such illegal practices. (Ord. 830 section 14, 1989; Ord. 740 section 10.8.20(E), 1984)

16.88.120 Enforcement procedures.

- A. City staff and officials will work closely with local title insurance companies, developers and members of the real estate profession to ensure fair and reasonable enforcement of these regulations.
- B. Upon finding any indication of a violation of state law relative to land division, city staff shall contact the Real Estate Division of the state Department of Commerce.
- C. Upon finding that the regulations of this title have apparently been violated, the City Planner shall cause the following steps to be taken:
 - 1. A member of the staff shall attempt to contact the property owner or apparent violator, explaining the requirements of this title and type of action which the city can be expected to take if the violation is not corrected.

2. If the property owner and/or violator is willing to correct the violation, he/she shall be given a reasonable amount of time to make such corrections.
3. If the owner and/or violator cannot be reached, is reached but does not intend to comply, or fails to comply within the time limits previously agreed to, the city shall take any of the following steps which are deemed appropriate in the situation:
 - a. Record a document affecting the title of all properties involved in the violation, thereby clouding the title and stating that no further permits will be issued for the development of any of the subject property;
 - b. Withhold any and all permits for the development of the property;
 - c. Disconnect the property from city services;
 - d. Cite the individual into a court of competent jurisdiction;
4. The City Planner shall notify, by certified mail, all record owners of the property involved, stating the nature of the remedial actions which the city is taking to correct the apparent violation. (Ord. 740 section 10.8.20(F), 1984)

16.88.130

(Ord. 740 section 10.8.30, 1984; Ord. 1019 section 12, 1999; Ord. 1043 section 3, 2000; mod. & renum. to 16.89 by Ord. 1080, 2001)

16.88.135

(Ord. 955 section 32, 1996; mod. & renum. to 16.89 by Ord. 1080, 2001)

16.88.140

(Ord. 740 section 10.8.40, 1984; Ord. 981 section 13, 1997; mod. & renum. to 16.89 by Ord. 1080, 2001)

16.88.150

(Mod. & renum. to 16.53 by Ord. 1080, 2001)

16.88.160 Public officials.

The terms "City Administrator," "City Recorder," "City Engineer," "City Planner," and other references to individual employees by title, shall include any city staff member or consultant operating in an official capacity for the city. The terms are offered for the convenience of the user of this title and are not intended to impair the validity of this title. (Ord. 740 section 10.8.70, 1984; Ord. 1514, 2019)

16.88.170 Amendments to text of title.

- A. Authorization to Initiate Amendments. An amendment to the text of this title may be initiated by the City Council, by the Planning Commission or by the application of a property owner or his authorized agent. The Planning Commission shall, within forty days after closing the hearing, recommend to the City Council, approval, disapproval, or modification of the proposed amendment.

- B. Application and Fee. Application procedures shall be as described in Chapter 16.89.

- C. Public Hearing on an Amendment. Before taking final action on a proposed amendment, the Planning Commission shall hold a public hearing on the amendment following the requirements for advertising and conduct of hearings prescribed in Division VIII.

- D. Standards and Criteria. In judging whether or not this title should be amended or changed, the Planning Commission and City Council shall consider:
 - 1. The Comprehensive Plan of the city, and the plans and policies of the county, state, and local districts, in order to preserve functions and local aspects of land conservation and development;
 - 2. A public need for the change;
 - 3. Whether the proposed change will serve the public need better than any other change which might be expected to be made;
 - 4. Whether the change will preserve and protect the health, safety and general welfare of the residents in the community;
 - 5. Statewide planning goals.

- E. Record of Amendments. The City Planner shall maintain a record of amendments to the text of this title in a form convenient for the use of the public. (Ord. 740 section 10.8.60, 1984; Ord. 981 section 15, 1997; Ord. 1080, 2001)

16.88.180 Comprehensive Plan Amendments

- A. Authorization to Initiate Amendments. An amendment to the Comprehensive Plan may be initiated by the City Council, by the Planning Commission, or by the application of a property owner or his authorized agent. The Planning Commission shall, within forty days after closing the hearing, recommend to the City Council approval, disapproval, or modification of the proposed amendment.

- B. Application. Application procedures shall be as described in Chapter 16.89.

C. Legislative Plan Amendment Standards and Criteria. In judging whether or not a legislative plan amendment shall be approved, the Planning Commission and City Council shall consider:

1. The remainder of the Comprehensive Plan of the city, and the plans and policies of the county, state, and local districts, in order to preserve functions and local aspects of land conservation and development;
2. A public need for the change;
3. Whether the proposed change will serve the public need better than any other change which might be expected to be made;
4. Whether the change will preserve and protect the health, safety and general welfare of the residents in the community;
5. Statewide planning goals.

D. Quasi-judicial Plan Amendment Standards and Criteria. In judging whether a quasi-judicial plan amendment shall be approved, the Planning Commission and City Council shall consider:

1. The remainder of the Comprehensive Plan of the city, as well as the plans and policies of the county, state, or any local school or service districts which may be affected by the amendments;
2. Whether all required public facilities and services exist, or will be provided concurrent with the anticipated development of the area. (

E. For proposed comprehensive plan amendments, which must consider the long-term adequacy of the transportation system for TPR 660-10-060 compliance, ODOT must be consulted to determine whether a highway project is “reasonably likely to be funded” based on funding projections at that time. (Ord. 740 section 10.8.80, 1984; Ord. 981 section 16, 1997; Ord. 1080, 2001; Ord. 1340, 2011; Ord. 1514, 2019)

16.88.190 Conformance with Transportation System Plan and Transportation Planning Rule

A. A proposed comprehensive plan amendment, zone change or land use regulation change, whether initiated by the city or by a private interest, shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with the Transportation Planning Rule (OAR 660-012-0060). A plan or land use regulation amendment significantly affects a transportation facility if it:

1. Changes the functional classification of an existing or planned transportation facility;

2. Changes standards implementing a functional classification system;
 3. As measured at the end of the planning period identified in the adopted plan:
 - a. Allows types or levels of land use that would result in levels of travel or access that are inconsistent with the functional classification of a transportation facility; or
 - b. Would reduce the performance of the facility below the minimum acceptable performance standard identified in the Transportation System Plan;
 - c. Would worsen the performance of a facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the Transportation System Plan.
- B.** Amendments to the comprehensive plan and land use regulations which significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity, and performance standards (e.g., level of service, volume to capacity ratio, etc.) of the facility identified in the Transportation System Plan. This shall be accomplished by one of the following:
1. Adopting measures that demonstrate allowed land uses are consistent with the planned function, capacity, and performance standards of the transportation facility.
 2. Amending the TSP or comprehensive plan to provide transportation facilities, improvements or services adequate to support the proposed land uses consistent with the requirements of Section – 0060 of the TPR. Such amendments shall include a funding plan or other mechanism so that the facility, improvement or service will be provided by the end of the planning period.
 3. Altering land use designations, densities, or design requirements to reduce demand for vehicle travel and meet travel needs through other modes of transportation.
 4. Amending the TSP to modify the planned function, capacity or performance standards of the transportation facility.
 5. Providing other measures as a condition of development, including transportation system management measures, demand management or minor transportation improvements.
- C.** A Traffic Impact Study may be required by the City in accordance with Section 16.08.150. (Ord. 1043, section 3, 2000; Ord. 1237, 2007; Ord. 1340, 2011)