

Memorandum

Date: May 28, 2020

To: West Linn Planning Commission

From: Community Development Department

Subject: Major/Minor Utility Work Session

The Planning Commission (PC) has engaged in a long running discussion on the lack of specific “use” language for stormwater detention/treatment facilities (primarily ponds) in the Community Development Code (CDC). The most closely associated “uses” listed in the CDC are major and minor utilities, however neither one directly identifies stormwater detention/treatment facilities in its definition. On December 4, 2019, the PC voted 5 to 1 (Ayes: Pellett, Farrell, King, Kelly, and Mathews. Nays: Metlen) in favor of requesting a CDC Chapter 80 hearing to determine if these facilities should be classified as a minor utility. CDC Chapter 80 addresses unlisted uses, with the purpose being *“determining whether certain specific uses would have been permitted in a zone had they been contemplated, and whether such unlisted uses are compatible with the listed uses”*.

The PC then held work sessions on February 5, 2020 and May 6, 2020 to discuss the Chapter 80 hearing notice requirements and process, as well as background information on stormwater planning/engineering and how the City currently addresses each. Subsequent to the latter meeting, Interim City Manager/Community Development Director Williams, Mayor Axelrod, and PC Chair Walvatne held a conference call to discuss several issues the PC wants to place on future agendas, including the purpose of the Chapter 80 hearing and whether it will constructively address the PC concerns. Based on advice from the City Attorney that the Chapter 80 hearing needs a specific proposal and not an open ended question, and in addition the result could conflict with state housing law (see Attachment 1), the conference call ended with a recommendation to hold an additional work session (see Attachment 2).

At its June 3, 2020 meeting, the Chair agreed the PC will hold the aforementioned work session with the following goals:

1. Discuss state housing law and its relationship to stormwater permitting in further detail with the purpose of understanding the legal framework;
2. Review and discuss the history of major/minor definition amendments over the years and how other jurisdictions permit stormwater facilities, particularly above ground ponds in both subdivisions and commercial developments; and

3. Find consensus on whether current City process is sufficient or code amendments are necessary. If so, clearly define the problem to be solved with the amendments.

To help with the discussion, staff has provided background on the history of amendments to the major and minor utility definitions, research on other jurisdiction approaches to stormwater facilities, and a series of questions for the PC to contemplate while reviewing the information. The purpose of the questions is to assist in building PC consensus and help staff identify the most efficient and effective path forward to address PC concerns related to the stormwater detention/treatment facility “use” discussion.

1. The City currently treats a stormwater detention/treatment facility as a minor utility and permitted in all zones. Does the PC agree or disagree with this approach?
2. If the PC agrees with #1 above, are amendments to the definitions of major and minor utility sufficient to address PC concerns expressed in prior discussions? Are amendments necessary?
3. If the PC disagrees with #1 above, what would be the goal of reclassifying a stormwater detention/treatment facility as a major utility? What does that goal achieve that differs from the current process of treating them as a minor utility and permitted as part of a subdivision/design review/conditional use permit? Additional fees? More oversight?
4. If the PC wants more oversight, is it about the location or safety? The design and aesthetics? Whether they should even be allowed (Public Works staff has explained they are required)?
5. If classified as a major utility, the City Attorney has explained the current Conditional Use standards are not clear and objective and would run afoul of state housing law. Would the PC like to see additional approval standards related to stormwater detention/treatment facilities? If yes, would the Conditional Use chapter be amended to meet clear and objective standards? As an alternative, would staff findings for current Public Works Standards (Municipal Code Chapter 3.300) be sufficient?

The City has historically interpreted a stormwater detention/treatment facility to be a minor utility and permitted in all zones in the City. One primary reason for this interpretation is for the City to maintain compliance with its Clean Water Act permits, the City must require new development to treat, and many times detain, stormwater runoff from new impervious surfaces. This requirement exists for all development, just as providing water and sanitary sewer service is required. This includes development of single-family homes, new schools, subdivisions, street projects, and commercial or industrial campuses. Typically, the applicant also doesn't have an option on the placement of the stormwater facility as it must be the low point of the property under development. A major utility generally has options on the when/what/where/how planning and implementation process.

Another primary reason for the interpretation is the legislative intent that can be traced through the definition amendments of major and minor utilities. The differences between major and minor were more clearly stated in the past by the identification of impact from the

“use”. As the definitions have been amended over the years, the argument could be made that it wasn’t always to benefit of clarity. Here are the definitions over the years:

1983 (initial adoption of the CDC)

Utility, Major – A utility which may have a significant impact on the surrounding uses or the community in terms of generating traffic or creating noise or visual effects and includes utility, substation, pump station, water storage tank, sewer plant or other similar use essential for the proper function of the community.

Utility, Minor – A utility which has a minor impact on the surrounding uses or on the community in terms of generating traffic or creating noise or visual effects and includes the overhead or underground electric, telephone or cable television poles and wires, the underground gas and water distribution systems and the drainage or sewerage collection systems or other similar use essential for the proper functioning of the community.

2011 (adopted in Ordinance 1604)

Utility, Major – A utility facility or service that will have, or the installation of which will have, a significant impact on the surrounding uses or the community in terms of generating or disrupting traffic, interfering with access to adjacent properties, creating noise or causing adverse visual effects. “Major utility” includes, but is not limited to, a substation, pump station, water storage tank, sewer plant, transmission lines for water, drainage or sewerage collection systems, gas or electric, or other similar use.

Utility, Minor – A utility facility or service that will have, or the installation of which will have, a minor impact on the surrounding uses or on the community in terms of generating or disrupting traffic or access to adjacent properties, creating noise or causing adverse visual effects. “Minor utility” includes, but is not limited to, overhead or underground electric, telephone or cable television poles and wires, distribution lines for electric, gas, water, drainage or sewerage collection systems, or other similar use.

2014 (adopted in Ordinance 1635)

Utility, Major – A major utility facility or service includes, but is not limited to: a substation; pump station; water storage tank; sewerage treatment plant; water treatment plant; and transmission lines for water, drainage or sewerage collection systems, gas or electric, or other similar use.

Utility, Minor – A minor utility facility or service includes, but is not limited to: overhead or underground electric, telephone or cable television poles and wires, and distribution lines for electric, gas, water, drainage or sewerage collection systems, or other similar use.

The amendments in 2011 were in response to the Lake Oswego/Tigard Water Plant proposal. This is where transmission lines and distribution lines are introduced. The purpose was to differentiate that a large volume pipe that transmits water, for example, through a neighborhood, but does not directly serve that neighborhood, should be a major utility and a conditional use in residential zoning districts. A distribution line that provides service to the

homes in the neighborhood is a minor utility and permitted. No definitions were adopted for transmission or distribution lines, and in combination with the 2014 amendments that eliminated specific language related to impacts, the lack of clarity has led to this discussion.

Staff has also researched a number of other Metro jurisdictions to identify how they are addressing stormwater detention/treatment facilities in the development code. The language found in other codes varies widely, but the common theme is utilities that are required with development are simply considered as part of the development proposal. This includes required stormwater infrastructure. An overview of the information is provided below and examples of the actual code language are in Attachment 3.

	Permitted Use	Conditional Use	Use/Definition
Tigard	Above or underground proposed with development	Standalone above-ground not proposed with development	Basic Utility
Durham	Required public improvements as part of Site Design or Land Division proposal	Above-ground public utility structure that is walled and roofed	<ul style="list-style-type: none"> ▪ Required Public Facilities ▪ Public Utility Structure
Tualatin	On-site water quality/detention facility	Not Applicable	<ul style="list-style-type: none"> ▪ Public Improvement Requirements ▪ Basic Utility
Lake Oswego	Structures for stormwater collection, treatment, and distribution (Minor Utility)	Above-ground trunk lines (Major Utility)	<ul style="list-style-type: none"> ▪ Minor Utility ▪ Major Utility
Clackamas Co.	Installation of necessary facilities is required	Not Applicable	<ul style="list-style-type: none"> ▪ Necessary Facilities ▪ Public Utility Facilities
Oregon City	Required public improvements as part of Site Design or Land Division proposal	Not Applicable	<ul style="list-style-type: none"> ▪ Minimum Required Improvements ▪ Public Utilities
Gladstone	Adequate provisions for proper drainage as part of Development or Land Division proposal	Utility Facility (buildings and structures)	<ul style="list-style-type: none"> ▪ Drainage ▪ Utility Facility
Milwaukie	Public facility improvements as part of Development or Land Division proposal	Not Applicable	<ul style="list-style-type: none"> ▪ Public Facility Improvements ▪ Utility Facilities

As staff understands, the core of the issue seems to be centered on the “use” classification in the West Linn CDC. Based on the definition amendments over the years, the review of various “use” language in other jurisdictions, and experiences with different codes, staff finds when addressing “use” in the code there is danger in being overly prescriptive or complex as the expectation moves from a “category of use” to wanting to list every possible “use”, which is nearly impossible. A good example in the West Linn CDC would be the “use” General Retail Services. The definition provides descriptive language to help categorize and provides a few examples, but does not attempt to consider every possible product that could be sold in a retail environment.

Staff hopes the provided information helps with the PC discussion and consensus building on June 3rd. The guidance provided by Commissioners at the work session will assist staff in moving the issue forward to the next step.

If you have questions about the work session, please feel free to email or call me at dwyss@westlinnoregon.gov or 503-742-6064. As always, submitting questions prior to the meeting is beneficial to the efficiency and effectiveness of the discussion as it allows staff to prepare materials and distribute them for your consideration.

If you have questions about the mechanics/logistics of the virtual meeting, please contact Lynn Schroder at lschroder@westlinnoregon.gov or 503-742-6061. Thanks and look forward to working with you on the 3rd.



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LEGAL MEMORANDUM

TO: West Linn Planning Commission
FROM: Tim Ramis, City Attorney
DATE: May 28, 2020
RE: Stormwater Facilities Discussion

As background information for the Commission’s work session on stormwater facilities, City staff asked me to briefly summarize comments that the City Attorney has offered on this topic in prior meetings.

Procedure: Chapter 80 provides a process to sort out which category, conditional use or permitted use, various types of stormwater facilities fall into. It does not, however, end the work of the staff and Planning Commission if certain stormwater facilities are classified as major and therefore approvable only as conditional uses. The follow up work will involve procedures to amend the Code.

Public Works and Community Development staff have indicated that addressing the issues through the Chapter 80 process would work best if the Planning Commission employs its next discussion of stormwater facilities to identify the specific use (stormwater facility) being contemplated, propose whether it is a conditional or permitted use, and identify the specific zone or zones under consideration. This will allow a staff report to be prepared with proposed findings addressing the approval standards of Chapter 80. We agree this is advisable.

Clear and Objective Criteria: The City’s criteria for conditional uses involve the exercise of considerable discretion and judgment. These criteria were not designed to meet the standard for clear and objective criteria. They were instead designed to guide the process of decision making where the exercise of judgment was necessary.

If the Planning Commission determines that some stormwater facilities should be listed as a conditional use or defined as a major utility, it will be necessary to develop new criteria for stormwater facility conditional use review which are clear and objective. As Engineering staff has described, the provision of stormwater facilities is a required part of the process of approving a residential subdivision so the criteria applied will be required to meet the clear and objective standard of ORS 197.307(4). If the City attempts to apply the existing conditional use criteria to stormwater facilities associated with residential use, applicants will likely dispute the City’s ability to apply any criteria at all. The preferable approach is to develop new criteria that comply with ORS 197.307(4).

We will attend the Planning Commission’s discussion of this topic to answer questions Commissioners may have on this topic.

From: [Schroder, Lynn](#)
Cc: [Williams, John](#)
Subject: FW: PC next steps
Date: Monday, May 18, 2020 2:19:34 PM

Dear Planning Commissioner,

As requested by Chair Walvatne, I am forwarding this email chain to you. Please do not reply all to this email.

The next PC meeting is June 3, 2020 at 6:00 pm. It will be a virtual meeting, so look for your Webex invite. Chair Walvatne will like to discuss how other cities are regulating stormwater facilities in light the City's Attorney's concern regarding the conflict with state law.

Stay well,

Lynn

From: Gary Walvatne [mailto:gwalvatne@comcast.net]

Sent: Friday, May 15, 2020 5:08 PM

To: Schroder, Lynn

Cc: Williams, John ; Axelrod, Russell ; Tim Ramis

Subject: Re: PC next steps

Hi Lynn,

Since John is open to sending any of this information, including his email in its entirety, to the PC, please forward this entire email chain to all of the commissioners to bring them up to date.

Thanks so much and have a nice weekend,

Gary

Gary Walvatne

Planning Commission

On May 15, 2020, at 3:40 PM, Williams, John <JWilliams@westlinnoregon.gov> wrote:

Sounds great. I appreciate it. Lynn and I just talked and she will cancel the meeting after the PC receives your note. Please feel free to use chunks of my email, or even just send it to them, as you prefer.

The extra information on the Main Street project helps with context on that component. Let me think about that.

Have a good weekend.

JRW

From: Gary Walvatne [mailto:gwalvatne@comcast.net]

Sent: Friday, May 15, 2020 3:26 PM

To: Williams, John <JWilliams@westlinnoregon.gov>

Cc: Axelrod, Russell <RAxelrod@westlinnoregon.gov>; Tim Ramis <tim.ramis@jordanramis.com>; Schroder, Lynn <LSchroder@westlinnoregon.gov>

Subject: Re: PC next steps

Importance: High

Hello John,

Thank you for preparing the summary of our discussion. I am generally in agreement and here are my comments:

- **Savanna Heights driveway location/modification of PC Conditions of Approval.**

- I agree that no further public discussion is needed, as long as a legal resolution can come to this that is in compliance with the CDC. There seem to be options open to both the developer and the City to consider.
- As far as the CDC Chapter 99 modification process, I think it's good as is. However, there could be a discussion regarding the linkage from Chapters 48 and 89 that initiate the modification process. Defining a substantial change may be in the eyes of the beholder.
- **Major/minor utility question.**
 - I agree with your proposal for a June 3rd discussion during a work session. I would like to support the PC's 6-0 vote (I wasn't present) for the Chapter 80 hearing, but the City Attorney's concern regarding the conflict with state law should be presented and discussed again in light of how other communities are permitting stormwater detention facilities in general and aboveground ponds in particular for residential-zoned and commercial-zoned properties.
- **Planning Commission briefings on development progress.**
 - This would be a great way to update the PC on approved developments.
- **Staff liaison with PC and with PC Chair.**
 - PC looks forward to this.
- **Planning Commission role in transportation project design.**
 - We should discuss this further. As I've mentioned in a PC meeting, the TSP Addendum states that the Main Street project is explicitly not presented in the 2016 TSP. That is, in my mind, the crux of the issue. A \$7M Main Street project could have had its own concept plan, as was done for Highway 43. Based on what I had to find from the Main Street website, the project morphed from bike lanes on Willamette Falls Drive to the Main Street rebuild, and combined with the I-205 interchange and Blankenship projects. As mentioned during our call, I don't think the PC is opposed to the project, but we went through the rezoning process for the Willamette business area and that gave us some insight into what could/should be considered for the construction project.

Over the weekend, I'd like to draft a short summary regarding the Savanna Heights and major/minor utility issues to be forwarded through Lynn to the PC. I just want to clarify that the meeting is now not necessary at this time due to staff support that will take longer to complete.

Thanks again for the good discussion. Have a nice weekend,
Gary

On May 15, 2020, at 1:09 PM, Williams, John
<JWilliams@westlinnoregon.gov> wrote:

Gary and Russ,

Thank you for taking the time to discuss issues related to the Planning Commission on Wednesday. I promised to follow up with a proposed path forward on a few of these topics, so below you will find my thoughts on that. For the immediate path I recommend not holding a PC Work Session May 20 and giving us time to develop materials for PC discussion of the major/minor utility issue as described below on **June 3**. Not much of a

delay but it will allow for much better preparation. **Gary – if you agree with this after reading this email, could you please confirm with me and Lynn?**

Before diving in, I just want to emphasize that it is staff's goal to have a strong partnership with the Commission. We as staff work here to carry out the policy direction set by the Council and Commission, and it's really important to us that we iron out these rough patches and ensure that the Commission feels like we are all on the same team. Because we are. I'll commit to working hard to pull that together starting now.

Specific items:

- **Savanna Heights driveway location/modification of PC Conditions of Approval.** As we discussed, my goal here is to shift the focus away from further public criticism of a single staff error and towards a higher-level look at the modification process for land use decisions. I have already provided all the information available on this specific case in a very detailed email sent to the complainant, the PC, and the City Council. In it, I directly acknowledged that staff made a mistake and indicated we are working with the Building Official and City Attorney on options to resolve the situation. So, I think enough public shaming of our staff person has taken place between public email chains and PC meetings. So, I have two suggestions here:
 - 1) On the specific Tannler Dr. driveway issue, I suggest no further PC public discussion until we are able to make more progress with the developer and their attorney. Tim and I believe open discussion of this will not enhance the potential for a solution.
 - 2) I suggest that the PC could instead discuss the process to modify land use decisions and whether that process should change. We could prepare a staff report with options, and then take PC feedback to City Council for legislative direction if needed. This could happen in July.
- **Major/minor utility question.** Based on our conversation, it seems we are in agreement that a Chapter 80 hearing is not the right solution for this. Per the City Attorney, a hearing needs to have a proposal rather than an open question. Also, this topic is not even on the Council-approved project docket for the PC/staff to work on. It seems the path forward on this one is scheduling a PC work session (as proposed by you, Gary) that asks several specific question of the PC and provides examples of code from other cities. The PC must define what their desired outcome is that is different from our current engineering/zoning standards (rather than just making ponds a conditional use, which as the City Attorney reported is not in compliance with state law). I would

propose giving staff slightly more time to develop this memo and scheduling a work session discussion June 3 on this topic.

- **Planning Commission briefings on development progress.** As we discussed, the PC could benefit from periodic updates on development around town, allowing for you to see what happens after your land use decisions. This would also allow staff to return with information on how the PC's decisions have been implemented and potentially discussions of what worked well and what was challenging...allowing for better decisions and identification of needed legislative changes in the future. Sort of closing the loop, and creating a real opportunity for collaboration between PC and staff. I will work with Planning staff to prepare the first of these for July 2020.
- **Staff liaison with PC and with PC Chair.** As noted on our call, it is important that the PC and PC Chair have a "go-to" person at staff to coordinate all of this with. For several reasons in recent months this has not been available. I expect to have clarity on this point of contact for you (and for our staff) very soon.
- **Planning Commission role in transportation project design.** You both expressed an expectation that the PC would be briefed on "major" transportation projects during the design process. Staff's understanding was that the PC is involved in setting the big picture through their formal role in the Transportation System Plan, but did not have a role in individual project design. We are happy to change this, but I think it would be most effective if we better understood what the PC's role in this would be, how it relates to the Transportation Advisory Board's role, and what projects we would be expected to bring. My concern is that it's already fairly complicated to get design direction on these big projects when we are going to Neighborhood Associations, business groups, and the TAB (and the HRB in this case because of the historic design overlay district location) on the way to the City Council. When these groups disagree is where we get mired at times. What I'd like to do here is think this through with staff a bit more, and come back with a proposal that we can all discuss.

Sincerely,
John

John Williams
Interim City Manager
Community Development

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Development Code Research – Examples of Metro Area Jurisdiction’s Approach to Stormwater Detention/Treatment Facilities

City of Tigard – Community Development Code

https://www.tigard-or.gov/business/title_18.php

Chapter 18.60: Use Categories

18.60.050 Civic Use Categories

A. Basic Utilities.

1. Characteristics: Basic Utilities are infrastructure services that need to be located in or near where the service is provided. Service may be public or privately provided.
2. Accessory Uses: Accessory uses commonly found are parking; control, monitoring, data, or transmission equipment; and shelters.
3. Examples: Examples include water and sewer systems, telephone exchanges, power substations, and transit stations.
4. Exceptions:
 - a. Utility offices where employees or customers are generally present are classified as Office.
 - b. Bus barns are classified as Warehouse/Freight Movement.
 - c. Public or private passageways, including easements, for the express purpose of transmitting or transporting electricity, gas, oil, water, sewage, communication signals, or other similar services on a regional level are classified as Transportation/Utility Corridors.

F. Transportation/Utility Corridors.

1. Characteristics: Transportation/Utility Corridors are regional corridors in public or private ownership, including easements, dedicated for the express use of rail lines; multi-use trails; above-grade or underground power or communication lines; water, sewer, and storm sewer lines; or similar services.
2. Accessory uses: Accessory uses commonly found include trailhead improvements such as public restrooms and parking lots
3. Examples: Examples include rail trunk and feeder lines; multi-use trails; regional electrical transmission lines; and regional gas and petroleum pipelines.
4. Exceptions:
 - a. Railroad lead and spur lines for delivery of rail cars to sites or for unloading of rail cars on specific sites are classified as accessory to the primary use of the site.
 - b. Transportation/Utility Corridors contained within motor vehicle rights-of-way are not included.

c. Does not include Railroad Yards.

	Residential Zoning	Commercial Zoning	Parks Zoning	Industrial		
				I-P	I-L	I-H
Basic Utility[1]	C	A/C	C	C	C	A
Transportation/ Utility Corridor	C	A	C[2]	A	A	A

A = Allowed C = Conditional Use

[1] Above-ground public and private utility facilities proposed with development and underground public and private utility facilities are allowed. Standalone above-ground public and private utility facilities not proposed with development are allowed conditionally.

[2] Multi-use trails are allowed, all other uses are conditional

City of Durham – Development Code

<https://durham-oregon.us/wp-content/uploads/2018/09/DevelopmentCode-Revised-10.24.17.pdf>

3. SITE AND DESIGN

3.8 Required Public Facilities and Undergrounding

3.8.1 The City’s public water supply shall be extended if necessary and at the property owner’s expense so as to be available at the property line of each lot in a pressure and volume sufficient for the intended land use and construction type and use, as determined by the City’s water provider, and shall be extended to the boundary/ies of adjacent property/ies unless the water provider deems such extension to be not necessary or desirable.

3.8.2 The City’s sanitary-and storm sewerage system shall be extended if necessary and at the property owner’s expense so as to be available at the property line for any proposed land use for which the standards of the Clean Water Services (CWS) district require connection. All such facilities shall be constructed to CWS standards. No land division or land use for which City’s approval is required shall use septic tanks or similar facilities for private sanitary sewage disposal. Facilities for storm water detention shall be determined by CWS and the City.

3.8.3 Electricity, natural gas, and telephone and telecommunications supply lines shall be placed underground within the boundaries of a site and along those portions of public right of way that abut the site and shall otherwise be designed, constructed and placed according to the standards and requirements of the utility provider

4. APPLICATION AND APPROVAL CRITERIA FOR LAND USE, REZONE, AND TEXT AMENDMENT

4.3 Approval Criteria – MDDO, MDR and PRD Land Use Application

4.3.3 All public improvements necessary to serve the development are or will be available prior to the issuance of any building permit;

4.4 Approval Criteria – BPO, IP, OP Land Use Application

4.4.3 All public improvements necessary to serve the development are or will be available prior to the issuance of any building permit;

8: LAND DIVISIONS

8.3 Approval Criteria for Tentative Plan

8.3.5 All necessary public utilities are available to serve the development and all utility lines serving more than one lot are located in public easements

12. DEFINITIONS

12.2 As used in this code the following words and phrases mean

12.2.28 “Structure” means a walled and roofed building including a gas or liquid storage tank that is principally above ground.

	Residential			Industrial	Commercial	
	SDR	MDR	MDDO	IP	OP	BPO
Required Public Utility	P	P	P	P	P	P
Public Utility Structure*	C	C	C	P	C	C/P

P = Permitted C = Conditional Use

* Means a walled and roofed structure

City of Lake Oswego – Community Development Code

<https://www.codepublishing.com/OR/LakeOswego/>

50.10.003 DEFINITIONS

Public Facility or Utility, Major

Any public service improvement or structure developed by or for a public agency that is not defined as a minor public facility. This use includes but is not limited to utility substations; treatment plants, reservoirs and aboveground trunk lines for sewer, water or storm drainage systems; public schools; parks; libraries; fire stations; community centers; police stations; City administrative or other City office buildings; and City motor pools or maintenance buildings.

Public Facility or Utility, Minor

The following public service improvements or structures developed by or for a public agency:

- a. Minor utility structures, including poles, lines, pipes, collocated telecommunications facilities or other such facilities.
- b. Sewer, storm drainage, or water system structures, including reconstruction of existing facilities, pump stations, manholes, valves, hydrants or other portions of the collection, and treatment and distribution systems.
- c. Street improvements within existing development including sidewalks, curbs, gutters, catch basins, paving, signs and traffic control devices and street lights.
- d. Transit improvements, such as shelters or pedestrian and bicycle safety improvements, located within public right-of-way or on public property.
- e. School improvements which will not increase the capacity of the school nor create additional traffic or other impact on the surrounding neighborhood.
- f. Park improvements which will not create additional motor or foot traffic impact on the surrounding neighborhood.

	Residential Zoning	Commercial Zoning	Mixed-Use Zoning	Industrial Zoning
Minor Public Facility/Utility	P	P	P	P
Major Public Facility/Utility	C	C/P	C/P	P

P = Permitted C = Conditional Use

City of Oregon City Municipal Code

https://library.municode.com/or/oregon_city/codes/code_of_ordinances?nodeId=ORORMUCO

Title 17 – Zoning

Chapter 17.04 Definitions

"Public utilities and services" means facilities for providing electric power, communication, water, sewers and transportation.

"Utility facilities" means buildings, structures or any constructed portion of a system which provides for the production, transmission, conveyance, delivery or furnishing of services including, but not limited to, heat, light, water, power, natural gas, sanitary sewer, stormwater,

telephone and cable television. Utility facilities do not include stormwater pretreatment facilities.

Chapter 17.62 – Site Plan and Design

17.62.050 - General standards.

All development shall comply with the following standards:

J. Development shall comply with requirements of the following Oregon City Municipal Code chapters, as applicable, including but not limited to:

1. [Chapter 12.04](#), Streets, Sidewalks and Public Places.
2. [Chapter 12.08](#), Public and Street Trees.
3. [Chapter 13.04](#), Water Service System.
4. [Chapter 13.08](#), Sewer Regulations.
5. [Chapter 13.12](#), Stormwater Management.
6. [Chapter 16.12](#), Minimum Improvements and Design Standards for Development.

Title 16 – Land Divisions

Chapter 16.12 – Minimum Public Improvements and Design Standards for Development

16.12.095 - Same—Public facilities and services.

The following minimum improvements shall be required of all applicants for a development, unless the decision-maker determines that any such improvement is not proportional to the impact imposed on the city's public systems and facilities:

B. Drainage System. Applicants shall design and install drainage facilities within a development and shall connect the development's drainage system to the appropriate downstream storm drainage system as a minimum requirement for providing services to the applicant's development. The applicant shall obtain county or state approval when appropriate. Applicants are responsible for extending the appropriate storm drainage system to the development site and for providing for the connection of upgradient properties to that system. The applicant shall design the drainage facilities in accordance with city drainage master plan requirements, OCMC 13.12 and the public works stormwater and grading design standards.

	Residential Zoning	Commercial Zoning	Mixed-Use Zoning	Industrial Zoning
Required Public Improvement	P	P	P	P
Public Utilities*	C	C	C	P

P = Permitted C = Conditional Use

*Including pump stations, sub-stations, sewer and water treatment facilities, water towers, and recycling and resource recovery centers

City of Gladstone – Municipal Code

<https://www.codepublishing.com/OR/Gladstone/#!/Gladstone17/Gladstone17.html>

Title 17 Zoning and Development

Division I. General Standards

17.06 Definitions

17.06.548 Utility facility.

“Utility facility” means buildings, structures or any constructed portion of a system that provides for the production, transmission, conveyance, delivery or furnishing of services including, but not limited to, heat, light, water, power, natural gas, sanitary sewer, stormwater, telephone and cable television. Utility facilities do not include stormwater pretreatment facilities

Division III. Land Divisions and Property Line Adjustments

17.32 Subdivisions

17.32.020 Tentative plan.

(1) Submittal Requirement. An application for a subdivision shall include a minimum of twelve copies of a tentative plan drawn to scale and prepared by an Oregon registered professional engineer or professional land surveyor. The following information shall be provided on the tentative plan or, where it is impractical to include an item on the tentative plan, in a separate attachment:

- m) The location of proposed and existing utilities within the subdivision and the location of adjacent off-site utilities to which on-site utilities will connect. Include water; sanitary sewer; storm drainage with width, depth and direction of flow of any drainage channels; gas; electric, including power poles; and other utilities;

Division IV. Development Standards

17.56 Drainage

17.56.010 Applicability.

The development standards for surface water drainage shall apply to all new or redevelopment activities in the City of Gladstone that result in the creation or disturbance of 5,000 square feet or more impervious surface except for substantial improvement or lesser remodel or reconstruction of existing single-family or two-family dwellings.

17.56.020 Standards.

Adequate provisions shall be made to ensure proper drainage of surface waters, to preserve natural flow of watercourses and springs and to prevent soil erosion and flooding of neighboring properties or streets. Such provisions shall include but not be limited to the following:

- (1) Generally. All development shall be planned, designed, constructed and maintained to:
 - (a) Protect and preserve existing drainage channels to the maximum practicable extent;
 - (b) Protect development from flood hazards;
 - (c) Provide a system by which water within the development will be controlled and managed without causing damage or harm to the natural environment, or to property or persons within the drainage basin;
 - (d) Assure that waters drained from new or redevelopment sites are substantially free of pollutants, including sedimentary materials, through the use of stormwater treatment facilities as referenced herein and appropriate erosion and sediment control practices;
 - (e) Assure that runoff drained from new and redevelopment sites is managed in accordance with criteria outlined in the City of Gladstone Stormwater Treatment and Detention Standards as to not cause erosion to any greater extent than would occur in the absence of development;
 - (f) Avoid placement of surface detention or retention facilities in road rights of way.

	Residential Zoning	Commercial Zoning	Industrial Zoning
Adequate Provisions for Proper Drainage	A	A	A
Utility Facility*	C	C/A	A

A = Allowed C = Conditional Use

*Means buildings, structures or any constructed portion of a system. Does not include stormwater pretreatment facilities

City of Milwaukie – Municipal Code

<http://www.qcode.us/codes/milwaukie/>

Title 17 Land Division

Chapter 17.28 Design Standards

17.28.020 PUBLIC FACILITY IMPROVEMENTS

All land divisions and boundary changes that increase the number of lots shall be subject to the requirements and standards contained in Chapter 19.700 Public Facility Improvements and the Public Works Standards for improvements to streets, sidewalks, bicycle facilities, transit facilities, and public utilities.

Title 19 Zoning

Chapter 19.200 Definitions and Measurements

“Public facilities” means transportation and public utility improvements as described below.

“Transportation facilities” means transportation-related improvements in a right-of-way or easement, including, but not limited to, travel lanes, bicycle lanes, sidewalks, and transit facilities.

“Public utilities” means public utility-related improvements in a right-of-way, easement, or tract, including water, sanitary sewer, and stormwater infrastructure. See also “utility facilities.”

“Utility facilities” means buildings, structures, or any constructed portion of a system which provides for the production, transmission, conveyance, delivery, or furnishing of services, including, but not limited to, heat, light, water, power, natural gas, sanitary sewer, stormwater, telephone, and cable television. Utility facilities do not include stormwater facilities (such as wetlands, swales, and ponds that are maintained as stormwater facilities) but do include pipes, culverts, and similar enclosed structures that convey protected water features.

Chapter 19.700 Public Facility Improvements

19.702 APPLICABILITY

19.702.1 General

Chapter 19.700 applies to the following types of development in all zones:

- A. Partitions.
- B. Subdivisions.
- C. Replats.
- D. New construction.

E. Modification or expansion of an existing structure or a change or intensification in use that results in any one of the following. See Subsections 19.702.2-3 for specific applicability provisions for single-family residential development and development in downtown zones.

1. A new dwelling unit.
2. Any increase in gross floor area.
3. Any projected increase in vehicle trips, as determined by the Engineering Director.

19.709.2 Public Utility Improvements

Public utility improvements shall be required for proposed development that would have a detrimental effect on existing public utilities, cause capacity problems for existing public utilities, or fail to meet standards in the Public Works Standards. Development shall be required to complete or otherwise provide for the completion of the required improvements.

A. The Engineering Director shall determine which, if any, utility improvements are required. The Engineering Director's determination requiring utility improvements shall be based upon an analysis that shows the proposed development will result in one or more of the following situations:

1. Exceeds the design capacity of the utility.
2. Exceeds Public Works Standards or other generally accepted standards.
3. Creates a potential safety hazard.
4. Creates an ongoing maintenance problem.

B. The Engineering Director may approve one of the following to ensure completion of required utility improvements.

1. Formation of a reimbursement district in accordance with Chapter 13.30 for off-site public facility improvements fronting other properties.
2. Formation of a local improvement district in accordance with Chapter 3.08 for off-site public facility improvements fronting other properties.

19.709.3 Design Standards

Public utility improvements shall be designed and improved in accordance with the requirements of this chapter, the Public Works Standards, and improvement standards and specifications identified by the City during the development review process. The applicant shall provide engineered utility plans to the Engineering Director for review and approval prior to construction to demonstrate compliance with all City standards and requirements.

	Residential Zoning	Commercial Zoning	Industrial Zoning	Mixed-Use Zoning
Public Facility Improvements	P	P	P	P
Utility Facility*	N/A	N/A	N/A	N/A

P = Permitted C = Conditional Use N/A = Not Addressed

*Means buildings, structures or any constructed portion of a system.
Does not include stormwater facilities

City of Tualatin – Development Code

https://library.municode.com/or/tualatin/codes/development_code?nodeId=15715

Chapter 39 – Use Categories

TDC 39.620. - Basic Utilities.

(1) Characteristics. Basic Utilities are local and regional infrastructure facilities that must be located in or near the area to which the infrastructure is provided. Utilities may be publicly or privately owned and operated. Most facilities have few or no on-site employees, although treatment plants may be staffed continuously.

(2) Examples of Uses.

- Electrical substations.
- High tension electrical power lines.
- Sewage disposal and conveyance systems.
- Telephone exchange equipment.
- Water or sewage pump stations.
- Water towers and reservoirs.
- Water quality and flow control facilities.
- Water or sewage treatment plants.

(3) Exceptions.

- Utility offices where employees or customers are generally present are classified as Offices.
- Public agency or private utility operations centers are classified as Public Safety Facilities.
- Commercial radio or television broadcasting antennas are prohibited in all zones.

Chapter 74 Public Improvement Requirements

TDC 74.630. - Storm Drainage System.

(1) Storm drainage lines must be installed to serve each property in accordance with City standards. Storm drainage construction plans and calculations must be submitted to the City Manager for review and approval prior to construction.

(2) The storm drainage calculations must confirm that adequate capacity exists to serve the site. The discharge from the development must be analyzed in accordance with the City's Storm and Surface Water Regulations.

(3) If there are undeveloped properties adjacent to the proposed development site which can be served by the storm drainage system on the proposed development site, the applicant must extend storm drainage lines to the common boundary line with these properties. The lines must be sized to convey expected flows to include all future development from all up stream areas that will drain through the lines on the site, in accordance with the Tualatin Drainage Plan in TDC [Chapter 14](#).

TDC 74.640. - Grading.

(1) Development sites must be graded to minimize the impact of storm water runoff onto adjacent properties and to allow adjacent properties to drain as they did before the new development.

(2) A development applicant must submit a grading plan showing that all lots in all portions of the development will be served by gravity drainage from the building crawl spaces; and that this development will not affect the drainage on adjacent properties. The City Manager may require the applicant to remove all excess material from the development site.

TDC 74.650. - Water Quality, Storm Water Detention and Erosion Control.

The applicant must comply with the water quality, storm water detention and erosion control requirements in the Surface Water Management Ordinance. If required:

(1) On subdivision and partition development applications, prior to approval of the final plat, the applicant must arrange to construct a permanent on-site water quality facility and storm water detention facility and submit a design and calculations indicating that the requirements of the Surface Water Management Ordinance will be satisfied and obtain a Stormwater Connection Permit from Clean Water Services; or

(2) On all other development applications, prior to issuance of any building permit, the applicant must arrange to construct a permanent on-site water quality facility and storm water detention facility and submit a design and calculations indicating that the requirements of the Surface Water Management Ordinance will be met and obtain a Stormwater Connection Permit from Clean Water Services.

(3) For on-site private and regional non-residential public facilities, the applicant must submit a stormwater facility agreement, which will include an operation and maintenance plan provided by the City, for the water quality facility for the City's review and approval. The applicant must submit an erosion control plan prior to issuance of a Public Works Permit. No construction or

disturbing of the site must occur until the erosion control plan is approved by the City and the required measures are in place and approved by the City.

	Residential Zoning	Commercial Zoning	Industrial Zoning	Mixed-Use Zoning
On-site water quality/detention facility	P	P	P	P
Basic Utility*	P/C	P/C	P	N/A

P = Permitted C = Conditional Use N/A = Not Addressed

*Addresses sewer and water pump/pressure reading stations, water reservoirs, electrical substations, natural gas pumping stations, utility substations

Clackamas County – Zoning and Development Ordinance

<https://www.clackamas.us/planning/zdo.html>

Section 200 General Definitions

202 Definitions

PUBLIC UTILITY: A utility regulated by the Public Utility Commission under ORS 757 or any other utility that provides electrical energy directly to consumers within the State of Oregon, including, but not limited to, municipalities, cooperatives and people's utility districts.

1006 UTILITIES, STREET LIGHTS, WATER SUPPLY, SEWAGE DISPOSAL, SURFACE WATER MANAGEMENT, AND EROSION CONTROL 1006.01 GENERAL STANDARDS

A. The location, design, installation, and maintenance of all utility lines and facilities shall be carried out with minimum feasible disturbance of soil and site consistent with the rules and regulations of the surface water management regulatory authority.

B. All development that has a need for electricity, natural gas, and communications services shall install them pursuant to the requirements of the utility district or company serving the development. Except where otherwise prohibited by the utility district or company, all such facilities shall be installed underground.

C. Coordinated installation of necessary water, sanitary sewer, and surface water management and conveyance facilities is required.

D. Easements shall be provided along lot lines as deemed necessary by the County, special districts, and utility companies. Easements for special purpose uses shall be of a width deemed appropriate by the responsible agency.

1006.06 SURFACE WATER MANAGEMENT AND EROSION CONTROL The following surface water management and erosion control standards apply:

A. Positive drainage and adequate conveyance of surface water shall be provided from roofs, footings, foundations, and other impervious or near-impervious surfaces to an appropriate discharge point.

B. The requirements of the surface water management regulatory authority apply. If the County is the surface water management regulatory authority, the surface water management requirements of the Clackamas County Roadway Standards apply.

C. Approval of a development shall be granted only if the applicant provides a preliminary statement of feasibility from the surface water management regulatory authority. The statement shall verify that adequate surface water management, treatment and conveyance is available to serve the development or can be made available through improvements completed by the developer or the system owner.

1. The surface water management regulatory authority may require a preliminary surface water management plan and report, natural resource assessment, and buffer analysis prior to signing the preliminary statement of feasibility.

2. The statement shall be dated no more than one year prior to the date a complete land use application is filed and need not reserve surface water treatment and conveyance system capacity for the development.

D. Development shall be planned, designed, constructed, and maintained to:

1. Protect and preserve existing natural drainage channels to the maximum practicable extent; 2. Protect development from flood hazards;

3. Provide a system by which water within the development will be controlled without causing damage or harm to the natural environment, or to property or persons within the drainage basin;

4. Ensure that waters drained from the development are substantially free of pollutants, including sedimentary materials, through such construction and drainage techniques as sedimentation ponds, reseeding, and phasing of grading; and

5. Ensure that waters are drained from the development in such a manner that will not cause erosion to any greater extent than would occur in the absence of development

E. Where culverts cannot provide sufficient capacity without significant environmental degradation, the County may require the watercourse to be bridged or spanned.

F. If a development, or any part thereof, is traversed by any watercourse, channel, stream, creek, gulch, or other natural drainage channel, adequate easements for surface water

management purposes shall be provided to the surface water management regulatory authority.

G. Channel obstructions are not allowed, except as approved for the creation of detention, retention, or hydropower facilities approved under this Ordinance. Fences with swing gates may be utilized.

H. The natural drainage pattern shall not be substantially altered at the periphery of the subject property. Greatly accelerated release of stored water is prohibited. Flow shall not be diverted to lands that have not previously encountered overland flow from the same upland source unless adjacent downstream owners agree.

I. A surface water management and erosion control plan is required for significant residential, commercial, industrial, and institutional development. The plan shall include:

1. The methods to be used to minimize the amount of runoff siltation and pollution created from the development both during and after construction; and
2. Other elements required by the surface water management authority.

	Residential Zoning	Commercial Zoning	Industrial Zoning
Necessary Facilities	P	P	P
Public Utility Facilities*	C	C/S	C

P = Permitted C = Conditional Use S = Authorization of Similar Use

* Utilities regulated by the Public Utility Commission under ORS 757