Section 4.140. **Planned Development Regulations.**

(.01) **Purpose.**

A. The provisions of Section 4.140 shall be known as the Planned Development Regulations. The purposes of these regulations are to encourage the development of tracts of land sufficiently large to allow for comprehensive master planning, and to provide flexibility in the application of certain regulations in a manner consistent with the intent of the Comprehensive Plan and general provisions of the zoning regulations and to encourage a harmonious variety of uses through mixed use design within specific developments thereby promoting the economy of shared public services and facilities and a variety of complimentary activities consistent with the land use designation on the Comprehensive Plan and the creation of an attractive, healthful, efficient and stable environment for living, shopping or working.

B. It is the further purpose of the following Section:

1. To take advantage of advances in technology, architectural design, and functional land use design:

2. To recognize the problems of population density, distribution and circulation and to allow a deviation from rigid established patterns of land uses, but controlled by defined policies and objectives detailed in the comprehensive plan;

3. To produce a comprehensive development equal to or better than that resulting from traditional lot land use development.

4. To permit flexibility of design in the placement and uses of buildings and open spaces, circulation facilities and off-street parking areas, and to more efficiently utilize potentials of sites characterized by special features of geography, topography, size or shape or characterized by problems of flood hazard, severe soil limitations, or other hazards;

5. To permit flexibility in the height of buildings while maintaining a ratio of site area to dwelling units that is consistent with the densities established by the Comprehensive Plan and the intent of the Plan to provide open space, outdoor living area and buffering of low-density development.

6. To allow development only where necessary and adequate services and facilities are available or provisions have been made to provide these services and facilities.

7. To permit mixed uses where it can clearly be demonstrated to be of benefit to the users and can be shown to be consistent with the intent of the Comprehensive Plan.

8. To allow flexibility and innovation in adapting to changes in the economic and technological climate.

(.02) **Lot Qualification.**
A. Planned Development may be established on lots which are suitable for and of a size to be planned and developed in a manner consistent with the purposes and objectives of Section 4.140.

B. Any site designated for development in the Comprehensive Plan may be developed as a Planned Development, provided that it is zoned “PD.” All sites which are greater than two (2) acres in size, and designated in the Comprehensive Plan for commercial, residential, or industrial use shall be developed as Planned Developments, unless approved for other uses permitted by the Development Code. Smaller sites may also be developed through the City’s PD procedures, provided that the location, size, lot configuration, topography, open space and natural vegetation of the site warrant such development.

(.03) Ownership.

A. The tract or tracts of land included in a proposed Planned Development must be in one (1) ownership or control or the subject of a joint application by the owners of all the property included. The holder of a written option to purchase, with written authorization by the owner to make applications, shall be deemed the owner of such land for the purposes of Section 4.140.

B. Unless otherwise provided as a condition for approval of a Planned Development permit, the permittee may divide and transfer units or parcels of any development. The transferee shall use and maintain each such unit or parcel in strict conformance with the approval permit and development plan.

(.04) Professional Design.

A. The applicant for all proposed Planned Developments shall certify that the professional services of the appropriate professionals have been utilized in the planning process for development.

B. Appropriate professionals shall include, but not be limited to the following to provide the elements of the planning process set out in Section 4.139:
   1. An architect licensed by the State of Oregon;
   2. A landscape architect registered by the State of Oregon;
   3. An urban planner holding full membership in the American Institute of Certified Planners, or a professional planner with prior experience representing clients before the Development Review Board, Planning Commission, or City Council; or
   4. A registered engineer or a land surveyor licensed by the State of Oregon.

C. One of the professional consultants chosen by the applicant from either 1, 2, or 3, above, shall be designated to be responsible for conferring with the planning staff with respect to the concept and details of the plan.

D. The selection of the professional coordinator of the design team will not limit the owner or the developer in consulting with the planning staff.
(05) **Planned Development Permit Process.**

A. All parcels of land exceeding two (2) acres in size that are to be used for residential, commercial or industrial development, shall, prior to the issuance of any building permit:

1. Be zoned for planned development;
2. Obtain a planned development permit; and
3. Obtain Development Review Board, or, on appeal, City Council approval.

B. Zone change and amendment to the zoning map are governed by the applicable provisions of the Zoning Sections, inclusive of Section 4.197

C. Development Review Board approval is governed by Sections 4.400 to 4.450

D. All planned developments require a planned development permit. The planned development permit review and approval process consists of the following multiple stages, the last two or three of which can be combined at the request of the applicant:

1. Pre-application conference with Planning Department;
2. Preliminary (Stage I) review by the Development Review Board. When a zone change is necessary, application for such change shall be made simultaneously with an application for preliminary approval to the Board; and
3. Final (Stage II) review by the Development Review Board
4. In the case of a zone change and zone boundary amendment, City Council approval is required to authorize a Stage I preliminary plan.

(06) **Staff Report:**

A. The planning staff shall prepare a report of its findings and conclusions as to whether the use contemplated is consistent with the land use designated on the Comprehensive Plan. If there is a disagreement as to whether the use contemplated is consistent, the applicant, by request, or the staff, may take the preliminary information provided to the Development Review Board for a use interpretation.

B. The applicant may proceed to apply for Stage I - Preliminary Approval - upon determination by either staff or the Development Review Board that the use contemplated is consistent with the Comprehensive Plan.

(07) **Preliminary Approval (Stage One):**

A. Applications for preliminary approval for planned developments shall:

1. Be made by the owner of all affected property or the owner’s authorized agent; and
2. Be filed on a form prescribed by the City Planning Department and filed with said Department.
3. Set forth the professional coordinator and professional design team as provided in subsection (.04), above.

4. State whether the development will include mixed land uses, and if so, what uses and in what proportions and locations.

B. The application shall include conceptual and quantitatively accurate representations of the entire development sufficient to judge the scope, size, and impact of the development on the community; and, in addition to the requirements set forth in Section 4.035, shall be accompanied by the following information:

1. A boundary survey or a certified boundary description by a registered engineer or licensed surveyor.

2. Topographic information as set forth in Section 4.035

3. A tabulation of the land area to be devoted to various uses, and a calculation of the average residential density per net acre.

4. A stage development schedule demonstrating that the developer intends receive Stage II approval within two (2) years of receiving Stage I approval, and to commence construction within two (2) years after the approval of the final development plan, and will proceed diligently to completion; unless a phased development schedule has been approved; in which case adherence to that schedule shall be considered to constitute diligent pursuit of project completion.

5. A commitment by the applicant to provide in the Final Approval (Stage II) a performance bond or other acceptable security for the capital improvements required by the project.

6. If it is proposed that the final development plan will be executed in stages, a schedule thereof shall be provided.

7. Statement of anticipated waivers from any of the applicable site development standards.

C. An application for a Stage I approval shall be considered by the Development Review Board as follows:

1. A public hearing as provided in Section 4.013.

2. After such hearing, the Board shall determine whether the proposal conforms to the permit criteria set forth in this Code, and may approve or disapprove the application and the accompanying preliminary development plan or require such changes therein or impose such conditions of approval as are in its judgment, necessary to ensure conformity to said criteria and regulations. In so doing, the Board may, in its discretion, authorize submission of the final development plan in stages, corresponding to different units or elements of the development. It shall do so only upon evidence assuring completion of the entire development in accordance with the preliminary development plan and stage development schedule.
3. A final decision on a complete application and preliminary plan shall be rendered within one hundred and twenty (120) days after the application is deemed complete unless a continuance is agreed upon by the applicant and the appropriate City decision-making body.

4. The determination of the Development Review Board shall become final at the end of the appeal period for the decision, unless appealed to the City Council in accordance with Section 4.022 of this Code.

(.09) Final Approval (Stage Two):
[Note: Outline Number is incorrect.]

A. Unless an extension has been granted by the Development Review Board, within two (2) years after the approval or modified approval of a preliminary development plan (Stage I), the applicant shall file with the City Planning Department a final plan for the entire development or when submission in stages has been authorized pursuant to Section 4.035 for the first unit of the development, a public hearing shall be held on each such application as provided in Section 4.013.

B. After such hearing, the Development Review Board shall determine whether the proposal conforms to the permit criteria set forth in this Code, and shall approve, conditionally approve, or disapprove the application.

C. The final plan shall conform in all major respects with the approved preliminary development plan, and shall include all information included in the preliminary plan plus the following:
   1. The location of water, sewerage and drainage facilities;
   2. Preliminary building and landscaping plans and elevations, sufficient to indicate the general character of the development;
   3. The general type and location of signs;
   4. Topographic information as set forth in Section 4.035;
   5. A map indicating the types and locations of all proposed uses; and
   6. A grading plan.

D. The final plan shall be sufficiently detailed to indicate fully the ultimate operation and appearance of the development or phase of development. However, Site Design Review is a separate and more detailed review of proposed design features, subject to the standards of Section 4.400.

E. Copies of legal documents required by the Development Review Board for dedication or reservation of public facilities, or for the creation of a non-profit homeowner’s association, shall also be submitted.

F. Within thirty (30) days after the filing of the final development plan, the Planning staff shall forward such development plan and the original application to the Tualatin Valley Fire and Rescue District, if applicable, and other agencies involved for review of public improvements, including streets, sewers and drainage. The
Development Review Board shall not act on a final development plan until it has first received a report from the agencies or until more than thirty (30) days have elapsed since the plan and application were sent to the agencies, whichever is the shorter period.

G. Upon receipt of the final development plan, the Development Review Board shall conduct a public hearing and examine such plan and determine:

1. Whether it conforms to all applicable criteria and standards; and
2. Whether it conforms in all substantial respects to the preliminary approval; or
3. Require such changes in the proposed development or impose such conditions of approval as are in its judgment necessary to insure conformity to the applicable criteria and standards.

H. If the Development Review Board permits the applicant to revise the plan, it shall be resubmitted as a final development plan within sixty (60) days. If the Board approves, disapproves or grants such permission to resubmit, the decision of the Board shall become final at the end of the appeal period for the decision, unless appealed to the City Council, in accordance with Sections 4.022 of this Code.

I. All Stage II Site Development plan approvals shall expire two years after their approval date, if substantial development has not occurred on the property prior to that time. Provided, however, that the Development Review Board may extend these expiration times for up to three (3) additional periods of not more than one (1) year each. Applicants seeking time extensions shall make their requests in writing at least thirty (30) days in advance of the expiration date. Requests for time extensions shall only be granted upon (1) a showing that the applicant has in good faith attempted to develop or market the property in the preceding year or that development can be expected to occur within the next year, and (2) payment of any and all Supplemental Street SDCs applicable to the development. Upon such payment, the development shall have vested traffic generation rights under 4.140 (.10), provided however, that if the Stage II approval should expire, the vested right to use trips is terminated upon City repayment, without interest, of Supplemental Street SDCs. For purposes of this Ordinance, “substantial development” is deemed to have occurred if the required building permits or public works permits have been issued for the development, and the development has been diligently pursued, including the completion of all conditions of approval established for the permit. [Amended by Ord 561, adopted 12/15/03.]

J. A planned development permit may be granted by the Development Review Board only if it is found that the development conforms to all the following criteria, as well as to the Planned Development Regulations in Section 4.140:
1. The location, design, size and uses, both separately and as a whole, are consistent with the Comprehensive Plan, and with any other applicable plan, development map or Ordinance adopted by the City Council.

2. That the location, design, size and uses are such that traffic generated by the development at the most probable used intersection(s) can be accommodated safely and without congestion in excess of Level of Service D, as defined in the Highway Capacity Manual published by the National Highway Research Board, on existing or immediately planned arterial or collector streets and will, in the case of commercial or industrial developments, avoid traversing local streets. Immediately planned arterial and collector streets are those listed in the City’s adopted Capital Improvement Program, for which funding has been approved or committed, and that are scheduled for completion within two years of occupancy of the development or four year if they are an associated crossing, interchange, or approach street improvement to Interstate 5.

   a. In determining levels of Service D, the City shall hire a traffic engineer at the applicant’s expense who shall prepare a written report containing the following minimum information for consideration by the Development Review Board:

      i. An estimate of the amount of traffic generated by the proposed development, the likely routes of travel of the estimated generated traffic, and the source(s) of information of the estimate of the traffic generated and the likely routes of travel; [Added by Ord. 561, adopted 12/15/03.]

      ii. What impact the estimate generated traffic will have on existing level of service including traffic generated by (1) the development itself, (2) all existing developments, (3) Stage II developments approved but not yet built, and (4) all developments that have vested traffic generation rights under section 4.140(.10), through the most probable used intersection(s), including state and county intersections, at the time of peak level of traffic. This analysis shall be conducted for each direction of travel if backup from other intersections will interfere with intersection operations. [Amended by Ord 561, adopted 12/15/03.]

   b. The following are exempt from meeting the Level of Service D criteria standard:

      i. A planned development or expansion thereof which generates three (3) new p.m. peak hour traffic trips or less;
      ii. A planned development or expansion thereof which provides an essential governmental service.

   c. Traffic generated by development exempted under this subsection on or after Ordinance No. 463 was enacted shall not be counted in determining levels of service for any future applicant. [Added by Ord 561, adopted 12/15/03.]
d. Exemptions under ‘b’ of this subsection shall not exempt the development or expansion from payment of system development charges or other applicable regulations. [Added by Ord 561, adopted 12/15/03.]

e. In no case will development be permitted that creates an aggregate level of traffic at LOS “F”. ([Added by Ord 561, adopted 12/15/03.]

3. That the location, design, size and uses are such that the residents or establishments to be accommodated will be adequately served by existing or immediately planned facilities and services.

K. Mapping: Whenever a Planned Development permit has been granted, and so long as the permit is in effect, the boundary of the Planned Development shall be indicated on the Zoning Map of the City of Wilsonville as the appropriate "PD" Zone.

L. Adherence to Approved Plan and Modification Thereof: The applicant shall agree in writing to be bound, for her/himself and her/his successors in interest, by the conditions prescribed for approval of a development. The approved final plan and stage development schedule shall control the issuance of all building permits and shall restrict the nature, location and design of all uses. Minor changes in an approved preliminary or final development plan may be approved by the Director of Planning if such changes are consistent with the purposes and general character of the development plan. All other modifications, including extension or revision of the stage development schedule, shall be processed in the same manner as the original application and shall be subject to the same procedural requirements.

M. In the event of a failure to comply with the approved plan or any prescribed condition of approval, including failure to comply with the stage development schedule, the Development Review Board may, after notice and hearing, revoke a Planned Development permit. General economic conditions that affect all in a similar manner may be considered as a basis for an extension of a development schedule. The determination of the Board shall become final thirty (30) days after the date of decision unless appealed to the City Council.

(.10) Early Vesting of Traffic Generation. Applicants with Stage I or Master Plan approvals occurring after June 2, 2003 may apply to vest the right to use available transportation capacity at the intersections of Wilsonville Road with Boone’s Ferry Road and with Town Center Loop West, and/or the I-5 interchange. Vesting for properties with such approvals shall occur upon execution of a vesting agreement satisfactory to the city, which agreement shall include a proposed development schedule or phasing plan and either provide for the payment of any and all Supplemental Street SDCs or provide other means of financing public improvements. Vesting for properties pending such approvals shall occur upon such agreement and the date the approvals are final.

The number of trips vested is subject to modification based upon updated traffic analysis associated with subsequent development approvals for the property. A reduction in
vested trips shall attend repayment of vesting fees by the City. An increase in available vested trips shall occur upon payment of necessary vesting fees.

Vesting shall remain valid and run with the property, unless an approval that is necessary for vesting to occur is terminated or a vesting agreement is terminated. If the vested right to use certain trips is lost or terminated, as determined by the Community Development Director with the concurrence of City Council, such trips shall be made available to other development upon City repayment, without interest, of associated vesting fees. [Added by Ord. 561, adopted 12/15/03.]