



City of Sandy

Agenda

Planning Commission Meeting

Meeting Location: Hybrid - 39250 Pioneer Blvd. and Zoom

Meeting Date: Monday, March 28, 2022

Meeting Time: 6:30 PM

Page

1. MEETING FORMAT NOTICE

The Planning Commission will conduct this meeting electronically using the Zoom video conference platform. Members of the public may listen, view, and/or participate in this meeting using Zoom. Using Zoom is free of charge. See the instructions below:

- To login to the electronic meeting online using your computer, click this link: <https://us02web.zoom.us/j/84152658449>
- If you would rather access the meeting via telephone, dial +1 346 248 7799. When prompted, enter the following meeting number: **841 5265 8449**
- If you do not have access to a computer or telephone and would like to take part in the meeting, please contact City Hall by Thursday March 24. and arrangements will be made to facilitate your participation.

2. ROLL CALL

3. APPROVAL OF MINUTES

3.1. Draft Minutes for January 24, 2022

[Planning Commission - 24 Jan 2022 - Minutes - Pdf](#)

3 - 8

4. REQUESTS FROM THE FLOOR - CITIZEN COMMUNICATION ON NON- AGENDA ITEMS

The Commission welcomes your comments at this time. Please see the instructions below:

- If you are participating online, click the "raise hand" button and wait to be recognized.
- If you are participating via telephone, dial *9 to "raise your hand" and wait to be recognized.

5. DIRECTOR'S REPORT

5.1. Director's Report for March 28, 2022

9 - 10

6. PLANNING COMMISSION DISCUSSION

7. OLD BUSINESS

- 7.1. Planning Commission Bylaws March 28, 2022 11 - 14
[Planning Commission Bylaws discussion - Pdf](#)

8. NEW BUSINESS

- 8.1. 21-059 DCA - SB 458 Code Amendments 15 - 145
[21-059 DCA SB 458 Code Amendments - Pdf](#)
[Staff Presentation for March 28, 2022, Hearing on SB 458](#)
[DLCD Presentation for SB 458](#)

9. ADJOURNMENT



MINUTES
Planning Commission Meeting
Monday, January 24, 2022 Hybrid - 39250
Pioneer Blvd. and Zoom 6:30 PM

COMMISSIONERS PRESENT: Hollis MacLean-Wenzel, Commissioner, Jerry Crosby, Commissioner, Chris Mayton, Commissioner, Steven Hook, Commissioner, Jan Lee, Commissioner, Breezy Poulin, Commissioner, and Darren Wegener, Commissioner

COMMISSIONERS ABSENT: None

STAFF PRESENT: Kelly O'Neill Jr., Development Services Director, Emily Meharg, Senior Planner, Shelley Denison, Associate Planner, and Chris Crean, City Attorney

COUNCIL LIAISON ABSENT: Rich Sheldon, Councilor

1. MEETING FORMAT NOTICE

Instructions for electronic meetings.

2. ROLL CALL

Chairman Crosby called the meeting to order at 6:32 p.m.

3. PLANNING COMMISSION DISCUSSION

3.1. Welcome new Planning Commissioners - Darren Wegener and Breezy Poulin

Chair Crosby welcomed Commissioners Poulin and Wegener. Chair Crosby asked the returning commissioners to think about something they wish they had known when they started that they could share with the new commissioners.

3.2. Chair and Vice Chair Appointments

Chair Crosby stated that the Commission needs to nominate and vote for a chair and vice chair. Commissioner Mayton nominated Chair Crosby for chair and Commissioner MacLean-Wenzel for vice chair. Commissioner MacLean Wenzel seconded it. Commissioner Lee nominated Commissioner Mayton for either position.

Commissioner Mayton nominated Chair Crosby as chair and Commissioner MacLean-Wenzel as vice chair. Commissioner Maclean-Wenzel seconded the nomination. Chair Crosby was selected as chair and Commissioner MacLean-Wenzel as vice chair for 2022 with a vote of 7:0.

3.3. Traffic Engineer Scoring Committee Appointment

Director O’Neill explained that the City’s current traffic consultant, John Replinger, is retiring at the end of April so the City is looking for a new person/firm to do traffic reviews for the City. Director O’Neill stated we would like one or two commissioners on the scoring panel. Commissioners Lee and MacLean-Wenzel volunteered to be on the scoring panel.

Motion: To appoint Commissioners Lee and MacLean-Wenzel to the scoring committee.

Moved by: Commissioner Mayton

Seconded By: Commissioner Wegener

Yes votes: All Ayes

No votes: None

Abstentions: None

The motion passed 7:0.

3.4. Returning Commissioners' Words of Wisdom

Commissioner Mayton explained that there are a lot of different interpretations of windows. He also said he wished he was more familiar with the geographic layout of the city of Sandy. Commissioner Lee learned about variances and wished she knew more about knowing the City ordinances more in-depth. Commissioner Hook wished he knew the geographic layout of Sandy better. He learned that staff is one of your best resources if you have questions on the material before the meeting. Commissioner MacLean-Wenzel said staff is a great resource and she wishes she had asked more questions earlier on. Going on a ride-along with staff is really helpful. Chair Crosby appreciates the teamwork of the commission and is looking forward to the new mix of commissioners. He has learned that the process and responsibilities of the planning commission is to apply the code. There are some opportunities for discretionary things, but a lot of times it’s black and white. Commissioner MacLean-Wenzel welcomed Commissioners Wegener and Poulin and stated she’d be happy to talk to them at any time. Commissioner Mayton echoed welcoming the new commissioners and told them to ask questions if they need to.

4. APPROVAL OF MINUTES

Chair Crosby stated that he reviewed Robert's Rules and learned a commissioner can vote to approve the minutes even if they weren't in attendance. Crosby also learned that the chair can declare the minutes approved without needing to make a motion.

4.1. Draft Minutes for November 8, 2021

Chair Crosby asked for any corrections or changes. After hearing no corrections or changes the minutes were approved as presented.

4.2. Draft Minutes for November 22, 2021

Chair Crosby asked for any corrections or changes. After hearing no corrections or changes the minutes were approved as presented.

5. REQUESTS FROM THE FLOOR - CITIZEN COMMUNICATION ON NON-AGENDA ITEMS

None

6. TRAINING

City Attorney Chris Crean introduced himself and stated he will be going over public hearings and issues that may arise. City Attorney Crean presented a slide show on the two types of land use decisions: legislative and quasi-judicial. Most decisions will be quasi-judicial and commissioners will have to be objective. City Attorney Crean also explained limited land use decisions, clear and objective standards, findings, the fixed goalpost rule, the 120-day rule, hearing requirements, ex-parte contact, bias, and conflict of interest.

Chair Crosby mentioned that a conflict of interest has to involve money. Director O'Neill's advice is that if there's a quorum at a meeting and a commissioner has a perceived conflict of interest, it's best to step down from making a decision. Commissioner Mayton asked City Attorney Crean about what happens if a member of the public objects to a commissioner. City Attorney Crean stated that a commissioner should make a statement that they are able to be impartial and make an objective decision. Chair Crosby asked about going to Google Maps and whether that was considered creating his own evidence. City Attorney Crean stated you can do that, you just have to declare that you did it. Director O'Neill stated that a commissioner can also ask staff questions and that is not considered an ex-parte contact. City Attorney Crean stated that if a commissioner looks something up, like a new roofing material, they can also email it to staff and staff can include it in the record.

City Attorney Crean discussed the implications of HB 2001 and SB 458 and legislative decisions. Commissioner Hook asked if biases from a past legislative hearing can be brought up again during a quasi-judicial hearing? City Attorney Crean stated that someone can bring it up, but that comments during a legislative process cannot be used against a commissioner in a quasi-judicial decision. Director O'Neill asked City

Attorney Crean to explain Measure 56 notices. City Attorney Crean stated that when a city rezones property they have to send out Measure 56 notices to all the properties that are affected. This includes zone changes as well as limiting or prohibiting uses that were previously allowed.

Commissioner Mayton asked for clarification as to whether you have to declare if you did a site visit. Director O'Neill stated yes that a site visit must be declared. Chair Crosby suggested he ask the commissioners who had driven by the site or visited the site at the beginning of the hearing.

7. DIRECTOR'S REPORT

Development Services Director O'Neill stated that the February 22, 2022 City Council meeting will be the selection of the Citizen Advisory Committee and that the Comprehensive Plan kick-off and SB 458 workshop will both occur at the March 7, 2022 City Council meeting. The February 28, 2022 meeting will likely be cancelled. The March meetings will likely be long meetings. Commissioner Lee asked if we're getting any duplex applications on land traditionally zoned for SFR. Director O'Neill stated we received one application to convert an SFR to a duplex and that the proposed subdivision, Cedar Creek Heights, by Johnson RV will most likely include duplexes.

Director O'Neill brought up potentially removing mini-storages from certain zones due to the large amounts of land they occupy and the lack of living wage jobs that they create. They also have a difficult time meeting Sandy Style. Currently, mini-storages are an allowed use in C-1, C-2, I-1, and I-2. The city of Sandy currently has three existing facilities and one facility that's currently being constructed. Commissioner Lee concurs with the report as does Commissioner MacLean-Wenzel. Commissioner Wegener asked what the percentage of vacancy is for commercial space. Director O'Neill stated there aren't many vacant retail spaces. There are a few buildings in the downtown that are vacant, but some can't meet fire or building code and that's why they're vacant. Director O'Neill stated that it's likely that the City Council will not want a bunch of mini-storages along the Bell Street and 362nd Avenue extension, which is primarily adjacent to C-2 land. Chair Crosby asked why there's a greater need for storage units and speculated that the trend is towards smaller homes on smaller lots and people like to collect things. O'Neill stated at the very least they should be taken out as an allowed use in the downtown and potentially the C-2 zone as well. Commissioner Mac-Lean Wenzel stated that we've had so much growth and so many new housing developments and that the preference would be to have restaurants and living wage jobs and places to go in town. All seven commissioners stated that they are in favor of removing mini-storage facilities as an allowed use.

8. OLD BUSINESS

8.1. Planning Commission Bylaws

Chair Crosby introduced the need for planning commission bylaws and the proposed edits to Chapter 2.16, which pertains to the planning commission bylaws. Director O’Neill stated that he reached out to the City Attorney’s office, and they stated that the planning commission bylaws should remain in the municipal code since the planning commission makes decisions that can have a big impact. Chair Crosby explained the move from two staggered cohorts to three staggered cohorts. Commissioner Hook asked if the length of the term should be included and/or when the cohorts would start. Chair Crosby stated the resolution already includes term lengths and starting and ending dates. Commissioner Poulin asked if the resolution should be referenced. Chair Crosby stated that if the City Council changes something in the resolution and the resolution is referenced then the code might need to be changed too. Commissioner Hook stated the seat numbers should be listed. Commissioner MacLean-Wenzel stated the seat numbers and commissioners’ names, and terms are on the website. Commissioner Lee asked if the commissioners should put their seat number next to their name on Zoom. Chair Crosby asked for clarification on advisory board and advisors in Section 2.16.060. The intent is to have advisors, not a board. Commissioner MacLean-Wenzel asked if advisory committee would be a better term. Chair Crosby stated there’s typically only one or two advisors so it’s not really a committee. Commissioner Mayton asked about succession training of the commission chair position. Chair Crosby stated he will be having the vice chair serve as chair at meetings more often and not just when the chair is not present. Commissioner MacLean-Wenzel asked if there should be a term limit on the chair and vice chair positions, so more commissioners get to learn how to run the meetings. Chair Crosby suggested a two-year term limit but then a commissioner would have to sit out for at least a year before they could serve as chair or vice chair again. Commissioner Hook stated the City of Fairview does something like this and that the City Council can overrule the term limit if there’s no one else available. Commissioner Mayton suggested to specify two one-year terms and then a year off before serving in that same position again. Chair Crosby went over meeting attendance requirements. Commissioner Lee stated that when she was on the City Council a councilor once missed three meetings without an excuse and the Council voted to remove them.

Motion: To accept the proposed edits to Chapter 2.16 with allowing staff to make the edits as discussed.

Moved By: Commissioner MacLean-Wenzel

Seconded By: Commissioner Lee

Yes votes: All Ayes

No votes: None

Abstentions: None
The motion passed.

9. **ADJOURNMENT**

Motion: To adjourn

Moved By: Commissioner MacLean-Wenzel

Seconded By: Commissioner Mayton

Yes votes: All Ayes

No votes: None

Abstentions: None

The motion passed.

Chairman Crosby adjourned the meeting at 8:56 p.m.



Chair, Jerry Crosby



Planning Director, Kelly O'Neill Jr



Staff Report

Meeting Date: March 28, 2022
From Kelly O'Neill Jr., Development Services Director
SUBJECT: Director's Report for March 28, 2022

BACKGROUND / CONTEXT:

Upcoming meetings:

- **April 25 at 6:30 PM:** Planning Commission meeting to discuss Parks Code Amendments and revisions to Parks & Trails Master Plan
- **May 23 at 6:30 PM:** Planning Commission meeting, subject TBD
- **June 27 at 6:30 PM:** Planning Commission meeting, subject TBD

Recent staff decisions of note:

- **Kallen Duplex Conversion (21-064 DR/TREE/FSH):** City staff processed the first House Bill 2001 conversion of a single family home to a duplex at 39601 Scenic Street.

Applications of note:

- **362nd Avenue and Bell Street Extension (22-003 FSH):** Planning Division staff is working with the Public Works Department and Harper Houf Peterson Righellis Inc. (HHPRI) to complete the application so that staff can review the road extension. This is primarily being reviewed in respect to FSH Overlay impacts, but will not necessitate a public hearing.
- **Bornstedt Views Subdivision (21-021 SUB/TREE):** The Planning Commission hearing for this subdivision was postponed so the applicant can work on deficiencies as identified in the original staff report. On March 2, 2022, the applicant provided another 120-day clock extension. The Planning Commission will likely hold a hearing to discuss this subdivision in May or June of 2022.
- **Deer Meadows Subdivision Appeal (21-061 AP):** The appeal hearing was originally scheduled for January 18, 2022, but after publication of the staff report on January 11, the applicant asked to move the hearing date. The City of Sandy granted this request and postponed the hearing to February 22, 2022. At the hearing on February 22, 2022, the applicant asked for a continuance to April 18, 2022. The primary reason for the continuance request was so that the applicant could modify the proposal and then allow staff to modify the staff report for Council's review. The City Council granted the continuance to April 18, 2022. The applicant then submitted additional material on March 14, 2022. Staff is now working on revisions to the appeal staff report based on the new submission from the applicant.

- **The Riffle Food Cart Facility (22-012 DR/VAR/ADJ):** An application for a food cart facility at 37115 Highway 26 (next to the Mt. Hood Athletic Club) was submitted to the Planning Division on March 18, 2022. This facility is proposed to include 18 food carts, a 3,600 square foot dining facility, a permanent restroom facility, and parking. This request includes a few variances and design deviations so it will be reviewed by the Planning Commission at a future meeting.

Other items of note:

- **Comprehensive Plan:** The project kickoff with 3J Consulting occurred on March 7 before the City Council. The first Citizen Advisory Committee (CAC) meeting occurred on March 16 and the video of the meeting can be viewed on [Youtube](#). The City is now soliciting input via a survey on our new engagement website: [Sandy-Speaks](#).
- **Senate Bill 458 (21-059 DCA):** A work session with the City Council and the Planning Commission occurred on March 7 to discuss how the City of Sandy shall proceed with adopting the requirements of this Senate bill.
- **Traffic Engineer:** Staff received one response to the Traffic Engineer RFP from DKS Associates. This is the same firm that recently completed the Bypass Feasibility Assessment and is working on the TSP revision. Staff is working with DKS Associates on a contract and hopes to have DKS Associates under contract as our Traffic Engineer by mid-April.
- **Clear and Objective Audit:** Staff received one response to the Clear and Objective Code Audit RFP from APG/MIG. Staff is now working with this consultant to revise the proposed scope, create a contract, and work on a timeline for the audit. More to come on this in the near future.



Staff Report

Meeting Date: March 28, 2022
From Kelly O'Neill Jr., Development Services Director
SUBJECT: Planning Commission Bylaws discussion

BACKGROUND / CONTEXT:

At the October 25, 2021 Planning Commission meeting there was discussion about adopting bylaws consistent with newly adopted Commission/Board rules.

At the November 8, 2021 Planning Commission meeting draft bylaws were reviewed by the Commission. After some discussion on additional modifications to the bylaws, Chairman Crosby summarized the suggested edits to the bylaws. Director O'Neill stated that the November 22 meeting would be too busy to vote on the bylaws and that it would make more sense to review them in January 2022 in case there are new commissioners. The Commission decided additional edits were needed and then they would review the bylaws again at the January meeting.

On January 24, 2022 the Planning Commission once again discussed the bylaws. Since that meeting, staff and Chairman Crosby have made additional edits. Prior to forwarding the recommended modifications to City Council, Chairman Crosby has asked for the Planning Commission to complete one final review.

RECOMMENDATION:

Review the draft bylaws/municipal code modifications, make amendments as desired, and forward a recommendation to the City Council for adoption.

LIST OF ATTACHMENTS/EXHIBITS:

Chapter 2.16 Code Revisions

CHAPTER 2.16 PLANNING COMMISSION

Sec. 2.16.010. Establishment.

There is established a ~~P~~lanning ~~e~~Commission for the ~~e~~City.
(Ord. No. 1473, § 1, 1973)

Sec. 2.16.020. Membership.

The ~~P~~lanning ~~e~~Commission shall consist of seven members, at least five of whom shall be city residents. The other two members may be residents or may consist of the following:

- A. An owner and operator of a business located within the city limits, provided such owner and operator is a resident of Clackamas County or that portion of Multnomah County east of 181st Street, Portland, Oregon;
- B. A resident within the city's urban growth boundary but outside city limits. Nothing in this section requires nonresident members.

Seat terms shall exist in three staggered cohorts of two, three, and two seats, respectively. The seats within each cohort shall share the same term beginning and end dates, which must not duplicate the term beginning and end dates of any other cohort.

(Ord. No. 17-91, § 1, 1991; Ord. No. 18-75, § 2; Ord. No. 13, 2017)

Sec. 2.16.030. Powers and duties of the ~~e~~Commission.

The powers and duties of the ~~P~~lanning ~~e~~Commission shall be as follows:

- A. To base all its decisions relating to land use, public facilities, circulation, community appearance and similar matters on the Sandy area comprehensive plan as now or hereafter constituted;
- B. To recommend to the ~~e~~City ~~e~~Council legislation that will implement the purposes of the comprehensive plan;
- C. To recommend zoning amendments consistent with the comprehensive plan;
- D. To review the capital improvement programs each year for consistency with the comprehensive plan;
- E. To review and, subject to appeal, take final action on proposed subdivisions and land partitions;
- F. To conduct hearings, prepare findings of fact, conclusions and recommendations, and perform such other duties relating to land use controls as may be prescribed by law (e.g., zoning, consideration of conditional use permit, variance and other applications);
- G. To review and submit recommendations to the ~~e~~City ~~e~~Council regarding any annexation to or withdrawal of territory to or from the city;
- H. To recommend and make suggestions to the ~~C~~ity ~~e~~Council and to all other public authorities concerning laying out, widening, extending and locating of streets and parking areas, sidewalks and boulevards,

relief of traffic congestion, betterment of housing and sanitation conditions and establishment of zones or districts limiting the use, height, area and bulk of buildings and structures;

- I. To recommend to the City eCouncil and all other public authorities plans for regulation of future growth, development and beautification of the municipality in respect to its public and private buildings and works, streets, parks, grounds and vacant lots, and plans consistent with future growth and development of the city in order to secure to the city and its inhabitants sanitation, proper service of all public utilities and transportation facilities;
- J. To study and propose in general such measures as may be advisable for promotion of the public interest, health, morals, safety, comfort, convenience and welfare of the city and of the area;
- K. To exercise any express or implied power, right or act pursuant to city ordinances and state law.

(Ord. No. 14-73, § 11, 1973)

Sec. 2.16.040. Commission member occupations.

No more than two voting members shall be engaged in the same kind of business, trade, or profession. No more than two voting members shall be engaged principally in the buying, selling, or developing of real estate.

(Ord. No. 14-73, § 12, 1973)

Sec. 2.16.050. Hearings officer.

The eCity eCouncil may appoint or designate one or more qualified persons as planning and zoning hearings officer. The hearings officer shall have the power to conduct hearings on applications for permits or of contested cases under rules and regulations adopted by the City eCouncil pursuant to ORS 227.230.

(Ord. No. 14-73, § 13, 1973)

Sec. 2.16.060. Advisory ~~board~~ members.

The Planning eCommission may recommend establish an appointment of advisory ~~board members with such members to be appointed by~~ to the eCity eCouncil or the City Council may directly appoint advisory members at their pleasure. Advisory members are invited to attend all meetings to lend their expertise to the eCommission in an advisory capacity. ~~Advisory members are authorized by eCity eCouncil to have voting power only in the event of a lack of a quorum of appointed Planning Commissioners.~~

(Ord. No. 14-73, § 15, 1973; Ord. No. 2018-04)

Sec. 2.16.070. Election of Officers.

At the first meeting of each calendar year, the Planning Commission shall elect a Chair and Vice Chair by majority vote from those commissioners. The Chair and Vice Chair shall serve one-year terms. Commissioners shall not serve as the Chair or Vice Chair for more than two consecutive calendar years.

Sec. 2.16.080. Quorum.

A majority of the Planning Commission shall constitute a quorum.

(Supp. No. 1, Update 3)

Created: 2021-09-08 09:53:25 [EST]

Sec. 2.16.090. Attendance.

If a commissioner is unable to attend a scheduled meeting, the commissioner must notify the Development Services Director as soon as the commissioner becomes aware attendance is not possible. If a commissioner fails to attend a scheduled Planning Commission meeting and does not notify the Development Services Director in advance of a meeting, the absence will be classified as unexcused. If a commissioner is absent, excused or unexcused, for 50 percent of Planning Commission meetings within any six-month period, the matter will be referred to the City Council to address.



Staff Report

Meeting Date: March 28, 2022
From Emily Meharg, Senior Planner
SUBJECT: 21-059 DCA SB 458 Code Amendments

DECISION TO BE MADE:

Forward a recommendation to City Council.

PURPOSE / OBJECTIVE:

To bring the Development Code into compliance with Senate Bill 458.

BACKGROUND / CONTEXT:

File No. 21-059 DCA amends Chapters 17.10, 17.18, 17.22, 17.28, 17.34, 17.36, 17.38, 17.40, and 17.100 of the Development Code, which pertain to definitions, processing applications, notices, appeals, single-family residential (SFR), low-density residential (R-1), medium-density residential (R-2), high-density residential (R-3), and land division, respectively. The primary goal of the proposed amendments is to amend the Development Code in compliance with Senate Bill (SB) 458. SB 458 is a follow-up to House Bill (HB) 2001, which required medium-sized cities to allow a duplex anywhere a single-family residence is permitted. SB 458 requires any city or county subject to the requirements of HB 2001 to adopt an expedited review process for middle housing land divisions (i.e., the division of a duplex into two separate lots). The expedited review process has a required 63-day processing timeline instead of the typical 120-day processing timeline required for most quasi-judicial land use applications. The primary intent of SB 458 is to enable middle housing lots (i.e., lots with duplexes) to be subdivided for individual sale and ownership. SB 458 does not affect the quantity or density of middle housing.

RECOMMENDATION:

Staff recommends the Planning Commission forward a recommendation of approval of the proposed code amendments to City Council.

LIST OF ATTACHMENTS/EXHIBITS:

Staff Report
Chapter 17.10 Code Modifications
Chapter 17.18 Code Modifications
Chapter 17.22 Code Modifications
Chapter 17.28 Code Modifications
Chapter 17.34 Code Modifications

Chapter 17.36 Code Modifications
Chapter 17.38 Code Modifications
Chapter 17.40 Code Modifications
Chapter 17.100 Code Modifications
Senate Bill 458
Expedited Land Divisions (ORS 197.360-197.380)
DLCD Guidance Document

**PLANNING COMMISSION
STAFF REPORT**

SUBJECT: File No. 21-059 DCA SB 458 Code Amendments

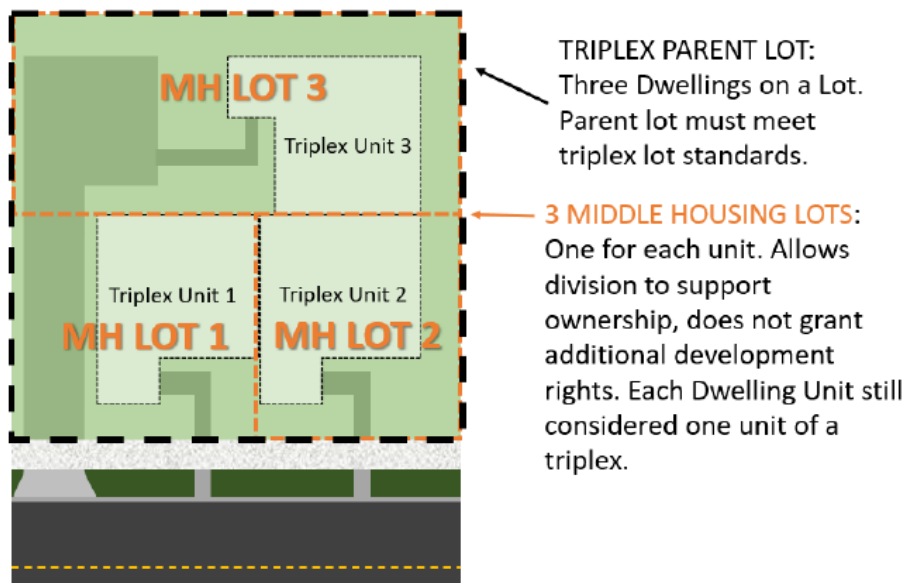
AGENDA DATE: March 28, 2022

TO: Planning Commission

FROM: Emily Meharg, Senior Planner

I. SUMMARY

File No. 21-059 DCA amends Chapters 17.10, 17.18, 17.22, 17.28, 17.34, 17.36, 17.38, 17.40, and 17.100 of the Development Code, which pertain to definitions, processing applications, notices, appeals, single-family residential (SFR), low-density residential (R-1), medium-density residential (R-2), high-density residential (R-3), and land division, respectively. The primary goal of the proposed amendments is to amend the Development Code in compliance with Senate Bill (SB) 458. SB 458 is a follow-up to House Bill (HB) 2001, which required medium-sized cities to allow a duplex anywhere a single-family residence is permitted. SB 458 requires any city or county subject to the requirements of HB 2001 to adopt an expedited review process for middle housing land divisions (i.e., the division of a duplex into two separate lots). The expedited review process has a required 63-day processing timeline instead of the typical 120-day processing timeline required for most quasi-judicial land use applications. The primary intent of SB 458 is to enable middle housing lots (i.e., lots with duplexes) to be subdivided for individual sale and ownership. SB 458 does not affect the quantity or density of middle housing.



SB 458 contains very specific parameters on how a city must process middle housing lot division applications, including a specific procedure for sending notices and processing appeals. The applicant must submit a tentative plan for the lot division including the following:

- A proposal for development of middle housing in compliance with the Oregon residential specialty code and applicable middle housing land use regulations;
- Separate utilities for each dwelling unit;
- Easements necessary for utilities, pedestrian access, common use areas or shared building elements, dedicated driveways/parking, and dedicated common area;
- One dwelling unit per each resulting lot or parcel (except common areas); and
- Demonstration that the buildings will meet the Oregon residential specialty code.

Cities retain the ability to require or condition certain things, including further lot division limitations, street frontage improvements, and right-of-way dedication if the original/parent parcel did not make such dedications. A city may not subject applications to approval criteria outside of what is provided in the bill, including that a lot or parcel require driveways, vehicle access, parking, or minimum/maximum street frontage. A city also may not subject applications to requirements inconsistent with House Bill 2001.

In addition to the required SB 458 code modifications (which are highlighted in yellow in the draft code amendments), the proposed modifications include housekeeping items, clear and objective language, and incorporation of plans to address limited land use development concerns. A majority of the clear and objective code modifications are to Chapter 17.100, Land Division. Incorporation of plans requires references to specific documents, such as the 2011 Transportation System Plan (TSP), the 2021 Parks Master Plan (PMP), and Public Works standard details. The proposed code modifications included in File No. 21-059 DCA will need to be updated again in the future when any of the specific documents are updated and adopted (e.g., when the 2022 TSP is officially adopted by ordinance). The changes to Chapters 17.34, 17.36, 17.38, and 17.40 are purely housekeeping and clear and objective amendments and are not in response to SB 458.

Proposed modifications to each Chapter are summarized below based on the following categories:

- Legislatively required – code modifications required by SB 458.
- Clear & Objective item – updated code language that is clear and objective.
- Administrative item – housekeeping items and small changes that reflect current practice.
- Discretionary item – changes proposed by staff that Planning Commission and ultimately City Council have the discretion to make a decision on.

CLARIFICATION: At the work session on March 7, 2022, there was some discussion regarding attached versus detached duplexes. Councilor Walker distributed some information stating that with the passage of House Bill 2001 we have started to allow detached duplexes. For clarity, the Sandy Development Code already allowed detached duplexes prior to the adoption of House Bill 2001. When the City Council decided to still allow detached duplexes in the Sandy Development Code it was not a modification to the development code but was actually just leaving the code as previously written.

Chapter 17.10 Definitions

- **Legislatively required:** Amended definition of a duplex to allow two units on separate lots if divided pursuant to a middle housing land division.
- **Legislatively required:** Added definition of middle housing land division.
- **Legislatively required:** Added definition of expedited land division.
- **Clear & Objective item:** Added definition of block length and diagrams that show how to measure block length.

Chapter 17.18 Processing Applications

- **Legislatively required:** Expanded the expedited land division section to elaborate on the process and include middle housing land divisions.
- **Clear & Objective item:** Clarified the code language where needed.
- **Administrative item:** Reduced the number of hard copies required to be submitted by the applicant.
- **Discretionary item:** Amended text in Section 17.18.00 to require elevation of all applications to the highest number procedure for review. *Planning Commissioners and City Councilors indicated agreement at the March 7 Work Session.*

Chapter 17.22 Notices

- **Legislatively required:** Added the noticing process for expedited land division/middle housing land division applications, including notice of the application and notice of decision.
- **Clear & Objective item:** Clarified the code language where needed.
- **Administrative item:** Added a section on notice of decision.
- **Discretionary item:** Removed “excluding street right-of-way” from noticing distance as no title company currently does this due to software limitations. *Planning Commissioners and City Councilors indicated agreement at the March 7 Work Session.*
- **Discretionary item:** Removed requirement to publish notices in a newspaper of general circulation as this is an added expense for the Planning Division, a time burden on staff, and is no longer legally required due to digital notices. *Planning Commissioners and City Councilors had mixed opinions at the March 7 Work Session.*

Chapter 17.28 Appeals

- **Legislatively required:** Added the appeal process for expedited land division/middle housing land division applications.
- **Administrative item:** Added requirement for applicant to submit mailing labels with appeal application.

Chapters 17.34 Single-Family Residential (SFR); 17.36 Low-Density Residential (R-1); 17.38 Medium-Density Residential (R-2); and 17.40 High-Density Residential (R-3)

- **Clear & Objective item:** Removed references to outdated code sections and clarified the code language where needed.

Chapter 17.100 Land Division

- **Legislatively required:** Added middle housing land division classification to Section 17.100.20.
- **Legislatively required:** Added Section 17.100.50 on middle housing land divisions, including applicability, procedure type, submittal requirements, approval criteria, conditions of approval, and expiration.
- **Clear & Objective item:** Clarified satisfactory and unsatisfactory street conditions in Section 17.100.20(C) and (F).
- **Clear & Objective item:** Clarified submittal items for all types of land divisions, especially subdivisions.
- **Clear & Objective item:** Updated approval criteria for minor and major partitions and replats (Section 17.100.40(D)), and subdivisions (Section 17.100.60(E)).
- **Clear & Objective item:** Clarified the code language where needed.
- **Administrative item:** Added preapplication conference requirement for property line adjustments.
- **Administrative item:** Deleted section on nonresidential partitions or subdivisions (formerly Section 17.100.50).
- **Administrative item:** Deleted section on character of the land (formerly Section 17.100.80).
- **Discretionary item:** Deleted sections on residential shared private drives and public access lanes (formerly Sections 17.100.150 and 17.100.160) as these options create substandard streets and encourage undesirable increased density forms. *Planning Commissioners and City Councilors indicated agreement at the March 7 Work Session and recommended adding an exception for stormwater pond access.*

The Planning Commission's role in this process will be to review the proposed code amendments and forward a recommendation to the City Council. The deadline for the City Council to adopt the code changes is June 30, 2022. Any city that has not incorporated middle housing lot division standards into their development code by June 30, 2022 will be required to utilize the SB 458 language directly in ORS to process middle housing lot divisions. Staff recommends an effective date of July 1, 2022 for the ordinance adopting the proposed SB 458 code amendments based on the state's deadline as well as the date the City's new fee schedule will take effect.

II. RECOMMENDED DISCUSSION TOPICS:

SB 458

- Do you want to require notation on the final plat that indicates the approval was provided under SB 458? Staff recommends yes, as it will provide clarity to future property owners. *Planning Commissioners and City Councilors indicated agreement at the March 7 Work Session. Including a notation on the deed was also discussed.*
- The city will need to establish application fees for an expedited land division and a middle housing land division. The fees must be set at a level calculated to recover the estimated full cost of processing an application, including the cost of appeals to the referee under ORS 197.375, based on the estimated average cost of such applications. Staff recommends

charging the Type II Partition fee of \$1,008 plus \$33 per lot (\$1,074 total for division of a duplex into two lots) and \$503 for the final plat review. This will require an amendment to the fee schedule. *Planning Commissioners and City Councilors indicated staff should make sure the fee covers all costs and that it will likely need to be higher. Staff reviewed the middle housing land division process and believes that \$2,500 should cover the estimated full cost of processing an application.*

Other Proposed Amendments

- Do you support staff's proposal to remove the requirement to publish a notice in the newspaper prior to a hearing? The City already promotes hearings by mail, on the City website, and via other social media accounts. *Planning Commissioners and City Councilors had mixed opinions at the March 7 Work Session. There was some discussion about publishing a shorter legal notice or potentially publishing a general statement directing people to the city's land use applications page to find out about upcoming hearings. A requirement to post notice of hearings on social media was also discussed.*
- Are there any additional subdivision criteria you'd like to see? *Planning Commissioners and City Councilors indicated they would like to explore this further but agreed it would be a much bigger discussion.*

III. ATTACHMENTS:

Chapter 17.10 Code Modifications
Chapter 17.18 Code Modifications
Chapter 17.22 Code Modifications
Chapter 17.28 Code Modifications
Chapter 17.34 Code Modifications
Chapter 17.36 Code Modifications
Chapter 17.38 Code Modifications
Chapter 17.40 Code Modifications
Chapter 17.100 Code Modifications
Senate Bill 458
Expedited Land Divisions (ORS 197.360-197.380)
DLCD Guidance Document

CHAPTER 17.10 DEFINITIONS¹

Sec. 17.10.00. Intent.

These definitions are intended to provide specific meanings for words and terms commonly used in zoning and land use regulations.

Sec. 17.10.10. Meaning of words generally.

All words and terms used in this Code have their commonly accepted dictionary meaning unless they are specifically defined in this Code or the context in which they are used clearly indicated to the contrary.

Sec. 17.10.20. Meaning of common words.

- A. All words used in the present tense include the future tense.
- B. All words used in the plural include the singular, and all words used in the singular include the plural unless the context clearly indicates to the contrary.
- C. The word "shall" is mandatory and the word "may" is permissive.
- D. The word "building" includes the word "structure."
- E. The phrase "used for" includes the phrases "arranged for," "designed for," "intended for," "maintained for," and "occupied for."
- F. The word "land" and "property" are used interchangeably unless the context clearly indicates to the contrary.
- G. The word "person" may be taken for persons, associations, firms, partnerships or corporations.

Sec. 17.10.30. Meaning of specific words and terms.

The listed specific words and terms are defined as follows:

Abandonment: To cease or discontinue a use or activity without intent to resume, but excluding temporary or short-term interruptions to a use or activity during periods of remodeling, maintaining or otherwise improving or rearranging a facility, or during normal periods of vacation or seasonal closure. An "intent to resume" can be shown through continuous operation of a portion of the facility, maintenance of sewer, water and other public utilities, or other outside proof of continuance such as bills of lading, delivery records, etc.

Abandonment, discontinued use: Discontinued use shall mean nonuse and shall not require a determination of the voluntary or involuntary use or intent to resume the use.

Abutting lots: Two or more lots joined by a common boundary line or point. For the purposes of this definition, no boundary line shall be deemed interrupted by a road, street, alley or public way, it being the intent

¹Editor's note(s)—Pre-republication, this chapter was last revised by Ord. No. 2020-24, effective September 21, 2020. Any amendments occurring post-republication have a history note in parenthesis at the bottom of the amended section.

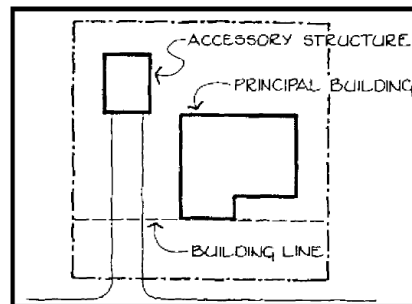
{00789769; 1 }

of this definition to treat property lying on the opposite sides of a road, street, alley or public way as having a common boundary line or point.

Access: The place, means, or way by which pedestrians or vehicles shall have safe, adequate, and usable ingress and egress to a property, use or parking space.

Accessory dwelling unit: A second dwelling unit either in or added to an existing single-family detached dwelling, or in a separate accessory structure on the same lot as the single-family dwelling, for use as a complete, independent living facility with provisions within the accessory apartment for cooking, eating, sanitation and sleeping. Such a dwelling is an accessory use to the single-family dwelling.

Accessory structure (detached): A structure that is clearly incidental to and subordinate to the main use of property and located on the same lot as the main use; freestanding and structurally separated from the main use.



Accessory Structure Example

Accessory structure (attached): A structure that is clearly incidental to and subordinate to the main use of the property; attached to the principal structure by the wall or roof of the latter or by the roof over a breezeway connecting the accessory and principal structures.

Accessory use: A use on the same lot with and of a nature customarily incidental and subordinate to the principal use.

Acre, gross: Gross acre means an acre area of land, which includes in its measurement public streets or other areas to be dedicated or reserved for public use.

Acre, Net: Net acre means an acre area of land, which does not include in its measurement public streets or other areas to be dedicated or reserved for public use.

Activate (as in "activate wall"): Make the exterior of a building inviting to pedestrians through a combination of elements, such as an enhanced customer entrance, weather protecting features (such as canopies or awnings), pedestrian-scale signage, and transparent windows allowing for views into and from interior building spaces.

Actual Construction: The placing of construction materials in a permanent position and fastened in a permanent manner.

Adjacent lot: Adjacent means the same as abutting lot.

AE zone (floodway): Area of special flood hazard with water surface elevations determined as depicted on the FIRM.

Affordable housing: Housing for households with incomes at or below the Clackamas County median, as determined by the U.S. Department of Housing and Urban Development (HUD), on the assumption that these households do not spend more than 30 percent of their income for housing costs. Housing costs for renters include rent and heating. Housing cost for homeowners includes principal on the mortgage plus interest, taxes, insurance,

{00789769; 1 }

Created: 2021-09-08 09:53:40 [EST]

(Supp. No. 1, Update 3)

and heating. Note: Median income figures depend upon the household size assumed. These numbers are updated annually by HUD.

A-frame building: A building with steeply angled sides that meet at the top of the building in the shape of an "A"; more than half of the two side elevations comprise the primary roof form.

After school program: A program designed to provide care for and educational enhancement to children immediately following school release.

Agriculture: Nursery activity, horticulture and similar activities for the cultivation of commercial crops in addition to pasturing, breeding, dairying, and similar uses of animals, and poultry for commercial use; does not include processing, slaughtering, large scale poultry raising, commercial forestry and similar uses.

Aisle: The driving portion of the parking area. The aisle provides access to each space.

Alley: A public or private way permanently reserved as a means of access to abutting property, usually with principal access from another street.

Alteration: Any change, addition, or modification in construction or occupancy of an existing building or structure.

Amendment: A change in the wording, context, or substance of the Development Code, or a change in the zone boundaries or area district boundaries upon the zoning map.

Anchor space/store/building: The largest single use, or the largest space designed for a single store or use, on a site.

Ancillary structure/store/building: An accessory structure, store, or building. See also, Accessory Use.

Angled: Any parking space that is not parallel to the curb or driving aisle.

Apartment: A dwelling unit, which is located within a multi-family dwelling but excluding condominiums. (Multi-family dwelling is defined under Building Types.)

Appeal, floodplain: A request for a review of the Floodplain Administrator's interpretation of any provision of this chapter or a request for a variance.

Application: For purposes of this Code, application is defined as documents and materials submitted or to be submitted to the city.

Area of shallow flooding: A designated Zone AO or AH on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard: The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. It is shown on the Flood Insurance Rate Map (FIRM) as Zone A, AO, AH, A1-30, AE, A99, AR. "Special flood hazard area" is synonymous in meaning with the phrase "area of special flood hazard."

Automobile fueling station: Automotive fueling station means any premises used primarily for supplying motor fuel, oil, minor servicing, excluding body and fender repair, and the sale of accessories as a secondary service for automobiles, at retail direct to the customer.

Automobile wrecking yard: The dismantling or wrecking of used motor vehicles or trailers, or the storage, sale or dumping of dismantled, partially dismantled, obsolete or wrecked vehicles or their parts.

Average daily traffic (ADT): Two-direction, 24-hour total count of vehicles crossing a line perpendicular to the road on an average weekday.

{00789769; 1 }

Created: 2021-09-08 09:53:40 [EST]

(Supp. No. 1, Update 3)

Base flood: A flood having a one percent chance of being equaled or exceeded in any given year.

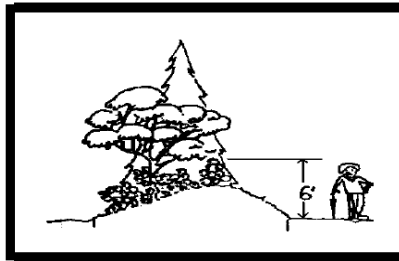
Base flood elevation (BFE): The elevation to which floodwater is anticipated to rise during the base flood.

Basement: Any area of a building having its floor subgrade below ground level on all sides.

Batten seam: Application of a batten where two exterior boards or panels adjoin (e.g., board and batten siding).

Bed and breakfast inn: A house, or portion thereof, where short-term lodging rooms and meals are provided. The operator of the inn shall live on the premises or in adjacent premises.

Berm: An earthen mound designed to provide a visual interest, screen undesirable views, and/or decrease noise.

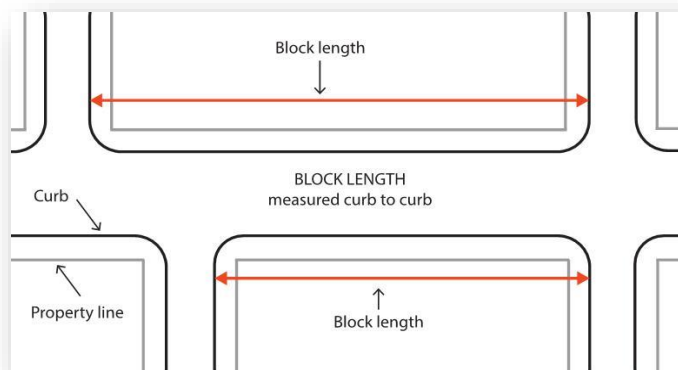


Berm Example

Big-box, or large-format commercial/industrial: Any single building containing more than 30,000 square feet of gross floor area in the C-1 zone, or greater than 60,000 square feet of gross floor area in any other commercial or industrial zone.

Block: A tract of land bounded by street or by a combination of streets and public parks, cemeteries, railroad rights-of-way, drainageways, or unsubdivided land.

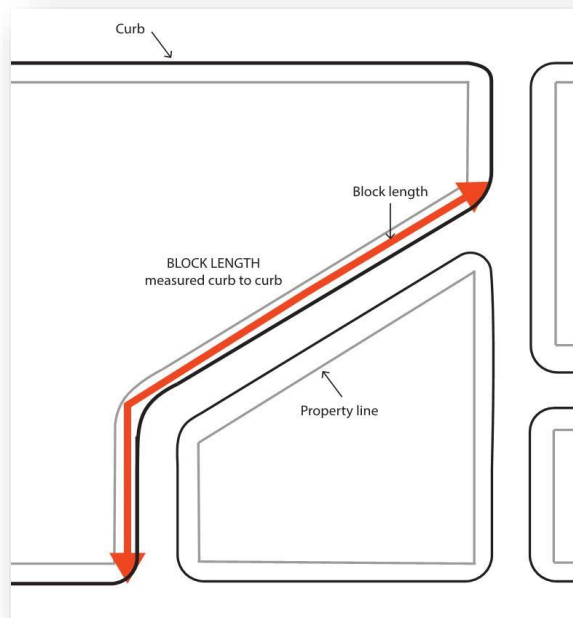
Block Length: [The distance along a block face measured from curb to curb between the edges of the two bounding intersections.](#)



{00789769; 1 }

Created: 2021-09-08 09:53:40 [EST]

(Supp. No. 1, Update 3)

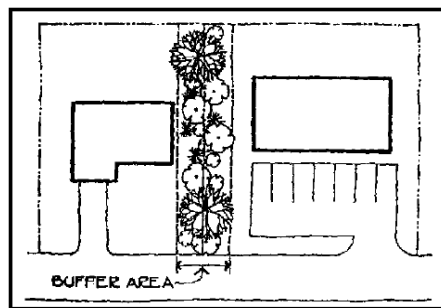


Boarding, lodging or rooming house: An establishment with lodging for not less than five persons nor more than ten persons not including members of the owner-occupant or tenant-occupant family, other than a hotel or motel, where lodging, with or without meals, is provided.

Bond: Any form of security (including a cash deposit, surety bond, collateral, property, or instrument of credit) in an amount and form satisfactory to the City.

Breezeway: A structure for the principal purpose of connecting the main building or buildings on a property with other main buildings or accessory buildings.

Buffer: A combination of physical space and vertical elements, such as plants, berms, fences or walls, designed to provide space or distance, obstruct undesirable views, serve as an acoustic barrier, generally reduce impacts of adjacent development, or separate and screen incompatible land uses from each other.



Buffer Example

{00789769; 1}

Created: 2021-09-08 09:53:40 [EST]

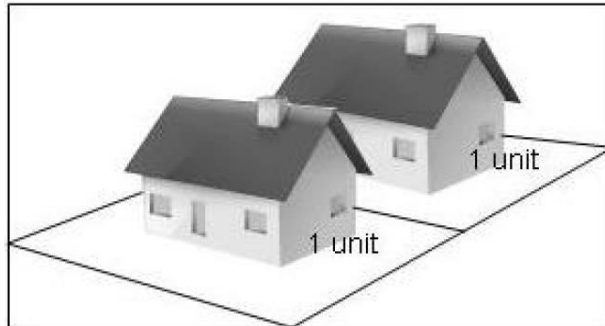
(Supp. No. 1, Update 3)

Building: Any structure used or intended for support, shelter or enclosure of any persons, animals, goods, equipment or chattels and property of any kind. If within an Area of Special Flood Hazard then the definition of "Structure" provided in Chapter 17.10 shall apply.

Building Types:

A. **Nonresidential:** That group of building types comprising the following:

1. **Detached:** A single main building, freestanding and structurally separated from other buildings.



2. **Attached:** Two or more main buildings placed side by side so that some structural parts are touching one another.



B. **Residential:** That group of building types comprising the following:

1. **Single detached:** One dwelling unit, freestanding and structurally separated from any other dwelling unit or buildings, located on a lot or development site, including manufactured homes as defined in this chapter.

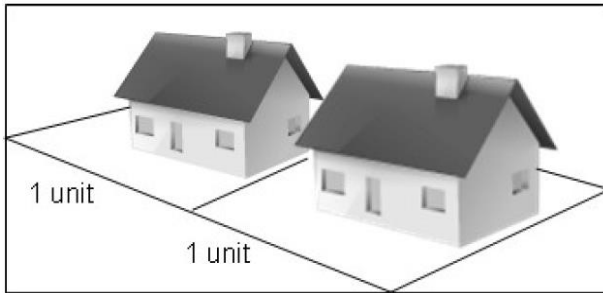


2. **Single detached (zero lot line):** A single detached structure with no setback from one lot line.

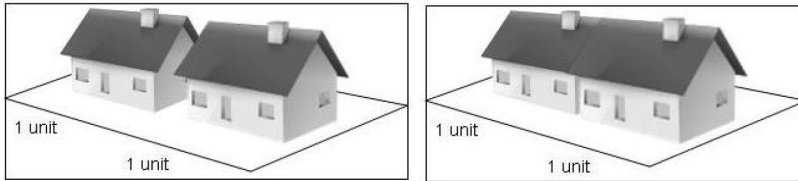
{00789769; 1 }

Created: 2021-09-08 09:53:40 [EST]

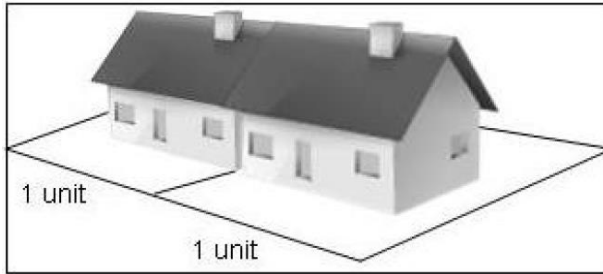
(Supp. No. 1, Update 3)



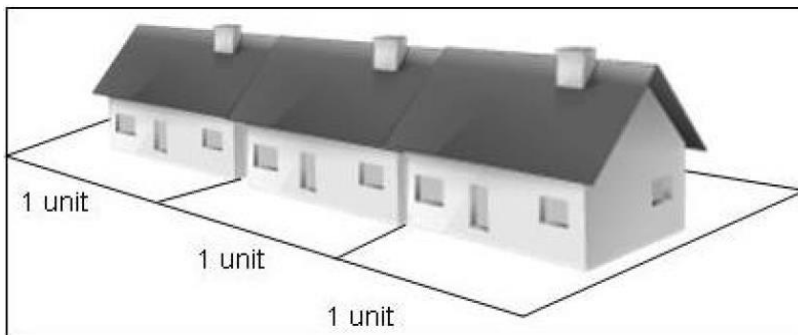
3. **Duplex:** A dwelling containing two independent dwelling units. The two dwelling units may be attached or detached, as shown in the images below. [A duplex could be two units on a single lot, or on separate lots if divided pursuant to a middle housing land division.](#)



4. **Single attached (zero lot line):** Two dwelling units located on separate lots but attached side by side sharing some structural parts at a common property line with no setback from one lot line.



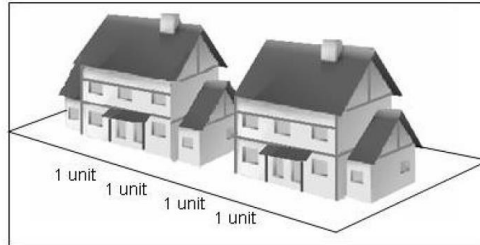
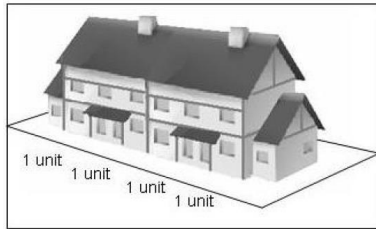
5. **Attached (row house):** More than two dwelling units located on separate lots placed side by side but sharing some structural parts at a common property line.



{00789769; 1 }

Created: 2021-09-08 09:53:40 [EST]

-
6. *Multi-family dwelling*: At least three dwelling units in any vertical or horizontal arrangement, located on a lot or development site. An existing dwelling may be utilized as part of a multi-family dwelling when redevelopment of the site occurs and does not have to be attached to another structure.



7. *Manufactured dwelling park*: A place where four or more manufactured or mobile homes are located within 500 feet of one another on a lot, tract, or parcel of land under the same ownership, the primary purpose of which is to rent or keep space for rent or to offer space free in connection with securing the trade or patronage of such person.

- C. The following commonly used terms are not considered building types for purposes of this Code.
1. *Cluster*: An arrangement of building types designed to retain open space areas equal to or greater than the cumulative total open space areas normally required and maintaining the permitted gross density of a site.
 2. *Condominium*: A form of ownership where the owner has a deed to a volume of space, and is governed by the provisions of ORS Chapter 100.

Building envelope: That portion of a lot or development site exclusive of the areas required for front, side, and rear yards and other required open spaces; and which is available for siting and constructing a building or buildings.

Building height: See Height of Buildings definition.

Building line: A line on a plat indicating the limit beyond which buildings or structures may not be erected, or the minimum or maximum distance as prescribed by this Code between the property line abutting a street and the closest point of the foundation of any building or structure related thereto. Building line means a line established by this title to govern the placement of a building with respect to the front lot line through the setback requirements of a minimum front yard. A building line is ordinarily parallel to the front lot line and at a distance in accordance with the setback requirement.

Bulk plant: An establishment where commodities, including both liquids and solids, are received by pipelines, tank car, tank vehicle, or other container, and are stored or blended in bulk for the purpose of distribution by pipeline, tank car, tank vehicle or container.

Carport: A stationary-roofed structure or a portion of a building open on two or more sides primarily used for the parking of motor vehicles.

Cemetery: Land used or intended to be used for the burial of the dead and related cemetery activities, including: columbarium, crematoriums, mausoleums, and mortuaries, when operated in conjunction with and within the boundary of such cemetery.

Change of zone: The legislative act of rezoning one or more lots or parcels

Church: An institution that people regularly attend to participate in or hold religious services, meetings and other activities.

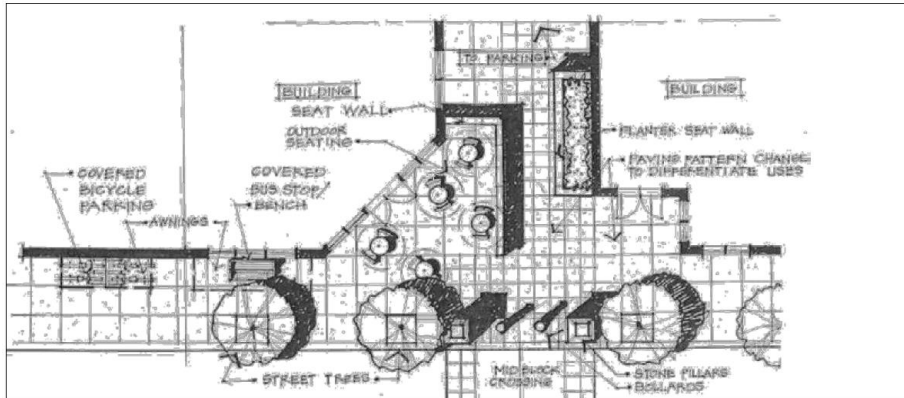
{00789769; 1 }

Created: 2021-09-08 09:53:40 [EST]

(Supp. No. 1, Update 3)

City: The City of Sandy, a municipal corporation of the State of Oregon, where the provision involves a duty owed the City in either its governmental or its corporate capacity; otherwise, that officer, department, or agency of the City indicated by the context, or where the context does not clearly indicate a specific officer, department, or agency, then the City Manager of the City.

Civic space: A public or quasi-public gathering space, such as a plaza, square, outdoor seating area, bus waiting area, garden, fountain, sculpture or public art display, or similar space, oriented to pedestrians and connecting one or more developments to the adjacent streetscape.



Civic Space Example

Clinic: A building or portion of a building designed and used for the diagnosis and treatment of human patients that does not include overnight care facilities, including medical, dental and psychiatric services.

Commercial day care facility: Any business other than a family day care home providing adult supervision for children or adolescents.

Commission: The Planning Commission.

Common open space: An area within a development designed and intended for the use or enjoyment of all residents of the development or for the use and enjoyment of the public in general.

Comprehensive plan: The comprehensive development plan for the City of Sandy, comprising plans, maps or reports, or any combination thereof relating to the future economic and physical growth and development or redevelopment of the city.

Community service use: A community use, including but not limited to, schools, churches, community centers, fire stations, libraries, parks and playgrounds, cemeteries, or government buildings.

Concrete form: A method of concrete construction where members are cast horizontally near their eventual location and integrate textures or patterns replicating other materials.

Conditional use: A use that would not be generally appropriate within a zoning district but which, if controlled as to number, area, location, or relation to the neighborhood, would not be detrimental to the public health, safety, or general welfare.

Condominium: A form of ownership where the owner has a deed to a volume of space, and is governed by the provisions of ORS Chapter 100.

Congregate housing: A structure containing two or more dwelling units or rooming units limited in occupancy to persons 55 years or older or handicapped persons, their spouses, except for rooms or units occupied by resident

{00789769; 1 }

Created: 2021-09-08 09:53:40 [EST]

(Supp. No. 1, Update 3)

staff personnel, providing indoor, conveniently located, shared food preparation service, dining areas, and common recreation, social and service facilities for the exclusive use of all residents.

Conservation easement: An easement granting a right or interest in real property that is appropriate to retaining land or water areas predominately in their natural, scenic, open or wooded condition; retaining such areas as suitable habitat for fish, plants, or wildlife; or maintaining existing land uses.

Consolidation: The elimination of a property line or lines of unplatted land to create a single unit of land where more than one unit previously existed.

Contiguous: The same as abutting.

Cooperative: A group or association which has taken a deed or lease to property and which issues stock upon which the tenant's rights to proprietary leases are based. The stock, or other evidence of interest in the cooperative corporation or association, shall be purchased by persons who are tenants in the occupancy of at least 80 percent of the accommodations in the structure and are entitled by reason of such ownership to proprietary leases of such accommodations.

Critical facilities (floodway): Hospitals, fire stations, police stations, storage of critical records, and similar facilities.

Cross-gable: Where one gable-ending roof intersects another gable-ending roof. (See graphic below.)



Gables (cross-gables) Example

Curtain windows (flush glazing): Preassembled wall units or continuous window glazing providing a flush surface; windows may be separated by metal framing members which may be set entirely behind the glass panes or units. This type of glazing does not allow for the division of windows into small panes with trim.

Day care facility: A child care facility certified to care for 13 or more children, or a facility that is certified to care for 12 or fewer children and located in a building constructed other than a single family dwelling. Also known as a "Certified Child Care Center" as defined in OAR 414, Division 300.

Day care, family: Baby-sitting, care of 12 or fewer children, including resident family members, as accessory to any residential use regardless of full-time or part-time status. Family day care is subject to the definition of home business.

Day(s): Shall mean calendar days unless working days are specified.

Density, gross: The number of residential dwelling units per gross acre of land

Density, net: The number of dwelling units per net acre (based on the total area of the parcel) excluding areas dedicated for public use.

Density transfer receiving areas: Unconstrained buildable land on the same site as land that is partially covered by the FSH overlay zone. Density may be transferred from constrained and unbuildable land to buildable density transfer receiving areas as prescribed in Section 17.60.120.

{00789769; 1 }

Created: 2021-09-08 09:53:40 [EST]

(Supp. No. 1, Update 3)

Detached: A single main building, freestanding and structurally separated from other buildings.

Detention, stormwater: The release of surface and stormwater runoff from a site at a slower rate than it is collected by the drainage facility system, the difference being held in temporary storage.

Detention facility, stormwater: A facility that collects water from developed areas and releases it at a slower rate than it enters the collection systems.

Developer: The owners of property or their agents or contractors, or their successors or assigns, who have undertaken or are proposing development.

Development site: A legally established lot or parcel of land occupied or capable of being occupied by a building or group of buildings including accessory structure(s) and accessory use(s), together with such yards or open spaces, and setback areas as are required by this Code and having frontage upon a street.

Development: Any human-made change to improved or unimproved real estate, including but not limited to, construction of buildings or other structures, mining, dredging, filling, grading, compaction, paving, excavation or drilling operations, storage of equipment or materials, stream alteration or channeling, vegetation removal or other similar activities.

Director: Planning and Development Director of the City of Sandy, or the Director's official designee, with responsibility for administration of this Code.

District: A land use area or zone established by this title for the designated intent.

Drainageway: A natural or artificial watercourse, including adjacent riparian vegetation, that has the specific function of transmitting natural stream water or storm runoff water from a point of higher elevation to a point of lower elevation.

Drip line (of a tree): A line projected to the ground delineating the outermost extent of foliage in all directions.

Drive-in facility: Any portion of a building or structure from which business is transacted, or is capable of being transacted, directly with customers located in a motor vehicle.

Dwelling unit: An independent living unit within a dwelling structure designed and intended for occupancy by not more than one family and having its own housekeeping and kitchen facilities. Hotel, motel, and rooming and boarding units, which are used primarily for transient tenancy, shall not be considered as dwelling units.

Easement: A right that a person has to use someone's land for a specific purpose such as for access or for utilities.

Effects of buoyancy: Uplift force of water on a submerged or partially submerged object.

Erosion: Detachment and movement of soil, rock fragments, refuse, or any other material, organic or inorganic.

Established grade: The curb line grade established by the City.

Excavation: The process of altering the natural (grade) elevation by cutting and/or filling the earth or any activity by which soil or rock is cut, dug, quarried, uncovered, removed, displaced or relocated.

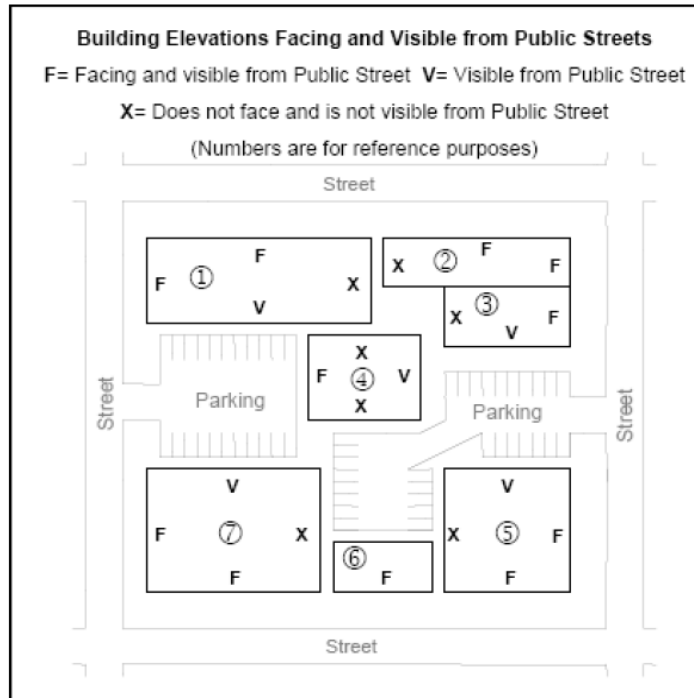
[Expedited Land Division: A division of land under ORS Sections 197.360 to 197.380. Middle housing land divisions shall be processed pursuant to the expedited land division procedures set forth in ORS Chapters 197.360 to 197.380.](#)

Facing (building elevation): A building elevation that is typically parallel and adjacent to a public street or civic space.

{00789769; 1 }

Created: 2021-09-08 09:53:40 [EST]

(Supp. No. 1, Update 3)



Facing and visible from a Public Street example

Family: Any number of individuals living together in a dwelling unit related by blood, marriage, legal adoption or guardianship; or a group of not more than five persons all or part of whom are not so related by blood or marriage living together as a single housekeeping unit in a dwelling unit.

Fast-food restaurant: This type of restaurant is characterized by a large carryout clientele and high turnover rates for eat-in customers. These limited service eating establishments do not provide table service.

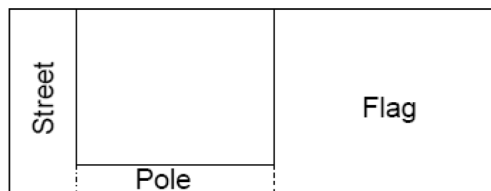
Fence: Any artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land, serve as a boundary, or means of protection or confinement.

Fence, sight-obscuring: A fence or evergreen planting of such density and so arranged as to obstruct vision.

Fill: Placement of any soil, sand, gravel, clay, mud, debris, refuse, or any other material, organic or inorganic.

Finished grade (ground level): The average of finished ground levels at the center of all walls of the building unless otherwise specified.

Flag lot: A lot that has access to a public right-of-way by means of a narrow strip of land.



Flag Lot Example

{00789769; 1 }

Created: 2021-09-08 09:53:40 [EST]

(Supp. No. 1, Update 3)

Flood or flooding:

- A. A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - 1. The overflow of inland or tidal waters.
 - 2. The unusual and rapid accumulation of runoff of surface waters from any source.
 - 3. Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in Subsection A.2. of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
- B. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph A.1. of this definition.

Flood insurance rate map (FIRM): The official map of a community, on which the Federal Insurance Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

Flood insurance study: An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

Floodplain or flood-prone area: Any land area susceptible to being inundated by water from any source. See "Flood or Flooding." The lowland and relatively flat areas adjoining inland waters including, at a minimum, that area identified as the Area of Special Flood Hazard.

Flood-proofing: Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Flood, slope and hazard areas (FSH):

- A. Buildable areas: Accessible lands of less than 25 percent slope that lie outside steep slope and water quality setback areas as defined in Chapter 17.60, Flood and Slope Hazard (FSH).
- B. Restricted development areas: As shown on the City of Sandy Zoning Map including:
 - 1. Slopes of 25 percent or greater that (a) encompass at least 1,000 square feet and (b) have an elevation differential of at least ten feet.
 - 2. Protected water features, including locally significant wetlands, wetland mitigation areas approved by the Division of State Lands, and perennial streams.
 - 3. Required setback areas as defined in section 17.60.30.

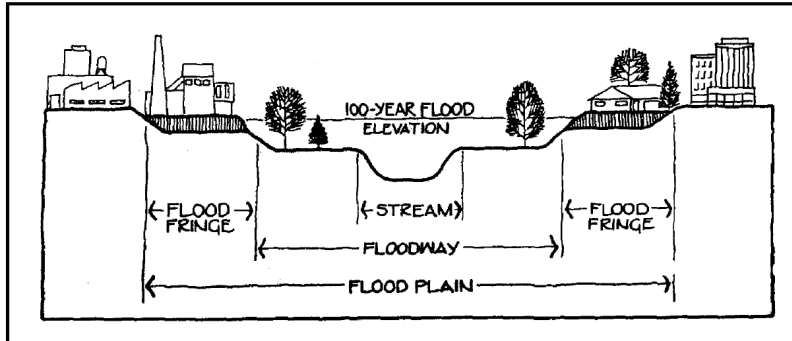
Floodway (regulatory floodway): The channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Floodway: The channel of a river or stream and those portions of the adjoining floodplains required to carry and discharge the base flood flow.

{00789769; 1 }

Created: 2021-09-08 09:53:40 [EST]

(Supp. No. 1, Update 3)



Floodway Example

Floor area: The sum of the area of several floors of a building including areas used for human occupancy. It does not include cellars, unenclosed porches, or attics not designed for human occupancy, or any floor space in any accessory building or any interior building parking areas, exclusive of vent shafts.

Floor, habitable: A floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination of the above. A floor used only for storage or parking is not a "habitable floor."

Foster home, adult: Any family home or facility in which residential care is provided for five or fewer adults who are not related to the provider by blood or marriage.

Frontage: That portion of a development site that abuts a public or private street. For the purposes of determining yard requirements on corner lots, all sides of a lot adjacent to a street shall be considered frontage, and yards shall be provided as indicated under "yards" in the definition section.

Flood and slope hazard (FSH) overlay district: An overlay zoning district defining water quality, flood, and slope hazard areas within the City identified on the City of Sandy Zoning Map.

Gabled roof: The generally triangular portion of a wall between the lines of a sloping roof. The shape of the gable and how it is detailed depends on the structural system being used (which is often related to climate and materials) and aesthetic concerns. The City of Sandy requires minimum roof pitch on some buildings which supports the use of gables.

Garage, private: A portion of a main building or an accessory building, shelter or carport used for the parking or temporary storage of private automobiles, trailers, mobile homes, boats or other vehicles owned or used by occupants of the main building.

Garage, public: A building designed and used for the storage, care, or repair of motor vehicles, including both minor and major mechanical overhauling, paint, and body work or where such vehicles are parked or stored for compensation, hire or sale.

Grade: Given in reference to the slope of land or in reference to construction: is the lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line, or, when the property line is more than five feet from the building, between the building and a line five feet from the building.

Gross area: The total usable area including accessory space dedicated to such things as streets, easements and uses out of character with the principal use, but within a unit of area being measured.

Ground floor: The floor of a building that is at or nearest the ground level.

{00789769; 1 }

Created: 2021-09-08 09:53:40 [EST]

(Supp. No. 1, Update 3)

Ground floor elevation: The elevation of a building that is at or nearest the ground level measured from the ground to a point 12-feet above the ground. (This definition is used to measure the ground floor area subject to window requirements in Chapter 17.90).

Group care home: A home or residential institution maintained and operated for the supervision, care or training of physically, mentally, or socially handicapped persons, but not including foster homes or detention facilities.

Grove: A stand of three or more trees of the same species or mix, which form a visual and biological unit.

Guest house: An accessory, detached dwelling without kitchen facilities, designed for and used to house transient visitors or guests of the occupants of the main building without compensation.

Half-story: A space under a sloping roof which has the line of intersection of roof decking and exterior wall face not more than five feet above the top floor level. A half-story containing one or more dwelling units shall be counted as a full story.

Half-street improvement: A one-half-street improvement includes curb and pavement two feet beyond the centerline of the right-of-way. A three-quarter street improvement includes curbs on both sides of the street and full pavement between curb faces.

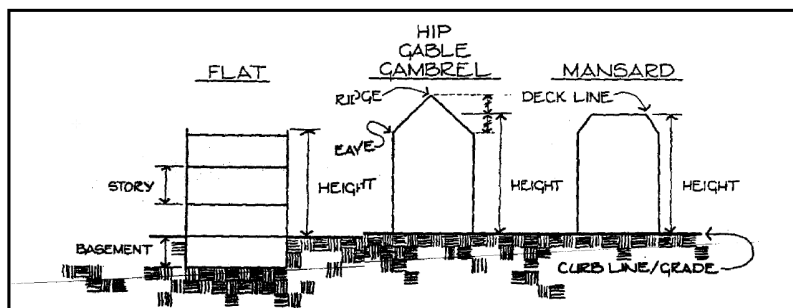
Health/recreation facility: An indoor facility including uses such as game courts, exercise equipment, locker rooms, Jacuzzi, and/or sauna and pro shop.

Hearing authority: The City Council, Planning Commission or an agency or officer of the Council designated by this Code to conduct public hearings prior to acting on applications for development.

Heavy timber: Exposed timber framing or detailing consisting of larger wooden members, commonly with dimensions in the range of six inches to 12 inches, as opposed to common wood framing which uses many more timbers with dimensions usually in the two inches to ten inches range. The methods of fastening the frame members also differ; in conventional framing the members are joined using nails or other mechanical fasteners while timber framing uses mortice and tenon (wood joint) or metal fasteners.

Height of buildings: The vertical distance above a reference datum measured to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitched or hipped roof. The reference datum shall be selected by either of the following, whichever yields a greater height of building:

- A. The elevation of the highest adjoining sidewalk or ground surface within a five-foot horizontal distance of the exterior wall of the building when such sidewalk or ground surface is not more than ten feet above lowest grade.
- B. An elevation ten feet higher than the lowest grade when the sidewalk or ground surface described in Item "A" above is more than ten feet above lowest grade.



Determining Building Height Example

{00789769; 1 }

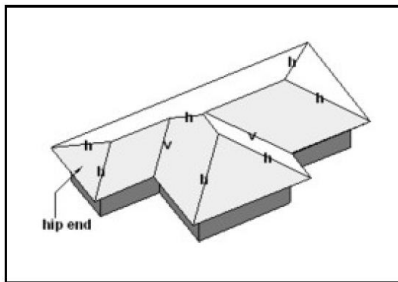
Created: 2021-09-08 09:53:40 [EST]

(Supp. No. 1, Update 3)

High-turnover sit down restaurant: This type of restaurant consists of a sit-down, full-service eating establishment with turnover rates of approximately one hour or less. This type of restaurant is usually moderately priced and frequently belongs to a restaurant chain. This restaurant type is different than fast-food and quality restaurants as defined in the Institute of Transportation Engineers, Trip Generation manual.

Highest adjacent grade: The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Hipped roof: A type of roof where all sides slope downwards to the walls, usually with a fairly gentle slope. thus it is a roof with no gables or other vertical sides to the roof. a square hip roof is shaped like a pyramid. hip roofs on rectangular houses will have two triangular sides and two trapezoidal ones. hip roofs often have dormers. where two hipped ("h") roof forms adjoin, the edge is called a valley ("v"). see graphic.



Hipped Roof Example

Historic resource alteration: Historic resource alteration means the change, addition, removal, physical modification or repair, which affects the exterior appearance of a landmark, excluding, however, routine maintenance and painting.

Historic resource alteration, major: Means exterior alteration, which is not a minor alteration.

Historic resource alteration, minor: Means exterior alteration which does not change the appearance or material of the landmark or contributing resource as it exists, or duplicates or restores the affected exterior features and material as determined from historic photos, building plan or other evidence or original features or material.

Historic structure (area of special flood hazard): Any structure that is:

- A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
- D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 1. By an approved state program as determined by the Secretary of the Interior or
 2. Directly by the Secretary of the Interior in states without approved programs.

{00789769; 1 }

Created: 2021-09-08 09:53:40 [EST]

(Supp. No. 1, Update 3)

Home business: A lawful commercial activity commonly carried on within a dwelling or attached or detached accessory structure.

Homeowners association: An incorporated, nonprofit organization operating under recorded land agreements through which a) each lot owner of a described land area is automatically a member; and b) subject to a charge for a proportionate share of the expenses for the organization's activities, such as maintaining a common property.

Hospital: An establishment, which provides sleeping and eating facilities to persons receiving medical, obstetrical or surgical care and nursing service.

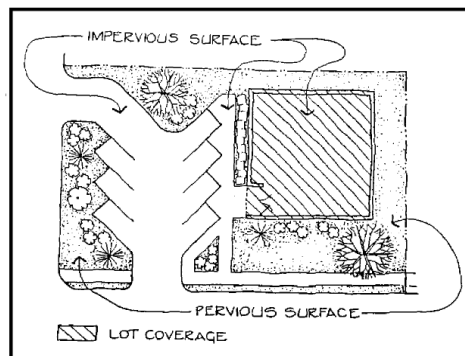
Hotel: A facility offering transient lodging accommodations at a daily rate to the general public. A hotel may provide additional services, such as restaurants, meeting rooms, and recreational facilities.

Household: A domestic establishment including a member or members of a family and/or others living under the same roof.

Hydrodynamic load: Force of water in motion.

Hydrostatic load: Force of water at rest.

Impervious surface: Any material that substantially reduces or prevents the infiltration of stormwater into previously undeveloped land. Impervious area shall include graveled driveways and parking areas.



Impervious Surface Example

Irrigation system: Method of supplying water (which can be manually or mechanically controlled) to a needed area.

Junkyard: An area used for the dismantling, storage or handling in any manner of junked vehicles or other machinery, or for the purpose of storage of dismantled material, junk and scrap, and/or where wastes and used or secondhand materials are bought, sold, exchanged, stored, processed, or handled. Materials include, but are not limited to, scrap iron and other metals, paper, rags, rubber tires, and bottles, if such activity is not incidental to the principal use of the same lot.

Kennel: Any premises or building in which four or more dogs or cats at least four months of age are kept commercially for board, propagation or sale.

Kitchen: Any room used, intended or designed for preparation and storage of food, including any room having a sink and provision for a range or stove.

Land area, net: That land area remaining after all area covered by impervious surfaces has been excluded (subtracted).

Land division: Land divided to create legally separate parcels in one of the following ways:

{00789769; 1 }

Created: 2021-09-08 09:53:40 [EST]

(Supp. No. 1, Update 3)

-
- A. *Partition*: A division of land that creates three or fewer lots within a calendar year when such parcel exists as a unit or contiguous units of land under single ownership at the beginning of the year. See also, "replat, minor."

A partition does not include division of land resulting from any of the following:

1. Establishment or modifications of a "tax lot" by the County Assessor;
2. A lien foreclosure, foreclosure of a recorded contract for the sale of real property or creation of cemetery lots;
3. An adjustment of a property line by relocation of a common boundary where an additional unit of land is not created and where the existing unit of land reduced in size by the adjustment complies with any applicable development district criteria established by this Code;
4. Sale or grant by a person to a public agency or public body for state highway, county road, city street or other right-of-way purposes provided that such road or right-of-way complies with the applicable Comprehensive Plan policies and ORS 215.213 (2)(q)—(s) and 215.283 (2)(p)—(r). See "property line adjustment."

- B. *Subdivision*: Division of an area or tract of land into four or more lots within a calendar year when such area or tract of land exists as a unit or contiguous units of land under a single ownership at the beginning of such year. See also, "Replat, Major."

Land, intensity of: Relative measure of development impact as defined by characteristics such as the number of dwelling units per acre, amount of traffic generated, and amount of site coverage.

Land, parcel of: Any quantity of land capable of being described with such definiteness that its location and boundaries may be established. Also, a unit of land created by a partition.

Landscape management corridor: The required yards abutting Highway 26 within the C-2, I-I and I-2 zoning districts where the Development Code requires native conifer and deciduous landscaping, creating the appearance of a forested corridor; openings or breaks in the landscape corridor are minimized, allowing for transportation access and framed views into development sites.

Landscaping: The arrangement of trees, grass, bushes, shrubs, flowers, gardens, fountains, patios, decks, outdoor furniture, and paving materials in a yard space. It does not include the placing or installation of artificial plant materials.

Legislative decision: Involves formulation of policy and as such, it is characteristic of the actions by a city council. Ex-parte contact requirements are not applicable to legislative hearings. Personal notice to citizens advising them of proposed changes is not required in most cases, although the Sandy Development Code specifies that in some cases notice shall be mailed to property owners if a decision will change the land-use designation. In general, the burden of being informed rests on the citizen. (See definition for "limited land use decision" and "quasi-judicial decision.")

Lien foreclosure: A lien foreclosure, foreclosure of a recorded contract for the sale of real property or creation of cemetery lots.

Limited land use decision: A land use decision made by staff through an administrative process and that qualifies as a Limited Land Use Decision under ORS 197.015.

Loading space: An off-street space within a building or on the same lot with a building for the temporary parking of commercial vehicles or trucks while loading or unloading merchandise or materials and which space has direct access to a street.

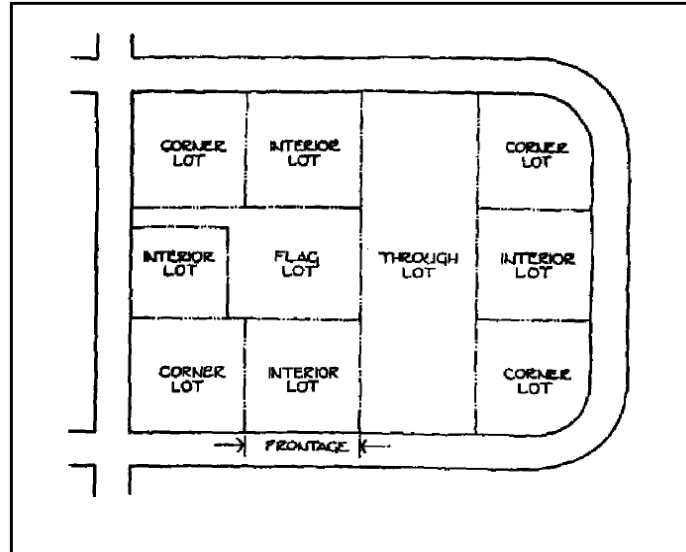
Lot area: The total horizontal area within the lot lines of a lot.

{00789769; 1 }

Created: 2021-09-08 09:53:40 [EST]

(Supp. No. 1, Update 3)

Lot, corner: A lot situated at the intersection of TWO streets, the interior angle of such intersection not exceeding 135 degrees.



Lot Corner Example

Lot coverage: Unless otherwise noted in a zoning district, percent of a development site covered, including all gravel and paved surface areas and areas encompassed by buildings.

Lot depth: The distance from the midpoint of the front lot line to the midpoint of the rear lot line.

Lot, interior: A lot other than a corner lot having frontage on only one street.

Lot line: The property line bounding a lot.

Lot line, front: In the case of an interior lot, a property line that abuts the street. In the case of a corner lot, the front line shall be determined by orientation of the structure based on at least two of the following factors: location of the front door, location of the driveway, or legal street address.

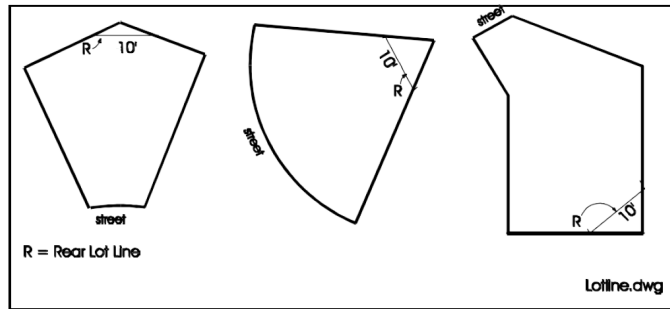
Lot line, side: Any lot boundary not a front or rear lot line (see figure under "lot line, rear").

Lot line, rear: The recorded lot line or lines most distant from and generally opposite the front lot line. In the case of an interior triangular lot or lot with more than four sides, however, the rear lot line shall mean a straight line ten feet in length that: a) is parallel to the front lot line or its chord and, b) intersects the other lot lines at points most distant from the front line (see figure below).

{00789769; 1 }

Created: 2021-09-08 09:53:40 [EST]

(Supp. No. 1, Update 3)



Rear Lot Line Example

Lot of record: A lot or parcel created through applicable land division regulations before adoption of this Code.

Lot, reversed corner: A corner lot whose rear line borders the side yard of another lot, whether or not separated by an alley.

Lot, tax: One parcel of real property shown on the County Assessor's map, and identified by a tax lot number. A tax lot may not necessarily be a lot of record.

Lot, through: A lot of record whose front and rear lot lines both abut streets.

Lot width: The horizontal distance between the midpoints of the side lot lines.

Lowest floor: The lowest floor of the lowest enclosed area (including a "basement"). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor if the building falls within the "Area of Special Flood Hazard," provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.

Mansard roof: A style of hip roof characterized by two slopes on each of its four sides with the lower slope being much steeper, almost a vertical wall, while the upper slope, usually not visible from the ground, is pitched at the minimum needed to shed water. This form may accommodate an additional building story. Often the decorative potential of the Mansard is expressed through the use of convex or concave curvature and with elaborate dormer window surrounds.



Mansard Roof Example

Manufactured dwelling park (also mobile home park or trailer park): A parcel (or contiguous parcels) of land with two or more manufactured dwelling lots for rent or sale. A parcel under single ownership that has been planned and improved for the placement of manufactured housing for dwelling purposes. Manufactured home

{00789769; 1 }

Created: 2021-09-08 09:53:40 [EST]

(Supp. No. 1, Update 3)

park means a privately owned place where four or more manufactured homes, mobile homes, or any combination of the above, used for human occupancy are placed on a lot, tract or parcel of land under the same ownership.

Manufactured dwelling: A dwelling constructed to U.S. Department of Housing and Urban Development (HUD) standards since June 15, 1976, but not to State Building Code standard and constructed for movement on public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is used for residential purposes and was constructed, and met the requirements of federal manufactured housing construction and safety standards and regulations in effect at the time of construction. All manufactured homes are to meet the requirements of the National Manufactured Home Construction and Safety Standards Act of 1974, as amended on August 22, 1981, consistent with HB 2863 Oregon Laws, 1989, and current Department of Housing and Urban Development (HUD) Manufactured Home Construction and Safety Standards as embodied in the most recent Federal Register. Within a "Special Flood Hazard Area" a manufactured dwelling shall mean a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured dwelling" does not include a "recreational vehicle."

Manufactured dwelling space: Any portion of a manufactured dwelling park (See "Manufactured Dwelling Park") which is designated or used for occupancy of one manufactured home or mobile home, including its accessory structures and its outdoor living areas, but exclusive of space provided for the common use of tenants such as roadways and guest parking.

Manufactured dwelling stand: That portion of the manufactured home space reserved for the location of the manufactured home or mobile home.

Marijuana dispensary: Those facilities registered and/or licensed by the state of Oregon as medical marijuana dispensaries and marijuana retailers.

Mean sea level: For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

Medical facility: A building or portion of a building designed and used for the diagnosis and treatment of human patients or animals including clinic, hospital, and laboratory, but excluding medical marijuana facility, as authorized by state law.

Medical marijuana grow site: Those facilities defined, registered and/or licensed by Oregon Health Authority to grow medical marijuana for more than one registered medical marijuana cardholder.

[Middle housing land division: A partition or subdivision of a lot or parcel on which the development of middle housing is allowed under ORS 197.758 \(2\) or \(3\). Middle housing land division applications shall be processed pursuant to the expedited land division procedures set forth in ORS Sections 197.360 to 197.380 and Section 17.18.120 of this development code.](#)

Mini-storage facility: A building or buildings consisting of individual, small, self-contained units that are leased or owned for the storage of business and household goods or contractors supplies.

Mobile home: A residential structure intended for permanent human occupancy and constructed for movement on the public highways, constructed prior to adoption of June 15, 1976 U.S. Housing and Urban Development (HUD) standards, but meeting the requirements of Oregon's mobile home laws in effect between January 1, 1962 and June 15, 1976 which met the construction requirements of Oregon Mobile Home Law in effect at the time of construction and which exhibits an Oregon Department of Commerce Insignia of Compliance that indicates conformance with U.S. Department of Housing and Urban Development, HUD, standards.

Modular structure: A structure not built on-site, but which is placed on a permanent foundation and meets the State Building Code standards.

{00789769; 1 }

Created: 2021-09-08 09:53:40 [EST]

(Supp. No. 1, Update 3)

Motel: A building or group of buildings on the same lot designed or used primarily for providing sleeping accommodations for automobile travelers and providing automobile parking conveniently located on the premises.

National geodetic vertical datum: An elevation reference mark used in determining a flood boundary and floodway maps, formerly referred to as Mean Sea Level.

New construction (area of special flood hazard): For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial Flood Insurance Rate Map or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

Nonconforming development: A lawful existing structure or use that does not conform to requirements of the district, but which was already in existence on the effective date of this Code or any amendment to it became effective.

Notice of decision: A written communication that specifies the action of a hearing authority or Director concerning a development proposal.

Nuisance: Activity or use that is annoying, unpleasant or obnoxious.

Nursing home: Any home, place, or institution which operates and maintains facilities providing convalescent or nursing care, or both, for a period exceeding 24 hours for six or more ill or infirm patients not related to the nursing home administrator or owner.

Office: A place where the following civic and commercial uses are conducted: Administrative services; business support services; financial, insurance and real estate services; medical services; professional and research services.

On the record: Refers to review by the Planning Commission or City Council based on written submissions received by the Director or at the hearing and/or review of a non-verbatim transcript of the prior proceedings and decision. If requested, the Planning Commission or City Council shall allow the applicant and/or appellant to present an oral summary of the evidence and Code sections that support their position. No new evidence shall be allowed. The Planning Commission or City Council may allow further oral comments of a summary nature.

Open space, group: Areas intended for common use either privately owned and maintained or dedicated to the City, designed for outdoor living and recreation or the retention of an area in its natural state. Group open spaces may include swimming pools, recreation courts, patios, open landscaped areas, and greenbelts with pedestrian, equestrian, and bicycle trails but do not include off-street parking, maneuvering or loading areas or driveways.

Open space, private: Areas intended for the private use by residents of an individual dwelling unit, designed for outdoor living and recreation or the retention of an area in its natural state.

Private open spaces may include patios and landscaped areas but does not include off-street parking, maneuvering, loading or delivery areas.

Order: Final disposition of a case. It can be affirmative, negative, injunctive, or declaratory in form. The grant, denial, or grant with conditions of an application for development is an order.

Other marijuana facility: Those facilities defined, registered and/or licensed by the state of Oregon including marijuana processing sites, marijuana producers, marijuana processors, marijuana wholesalers, and marijuana testing laboratories.

Overlay district: A development district created by ordinance in recognition of an area's unique characteristics such as environmental or historic resources, natural hazards, or an identified need for redevelopment.

{00789769; 1 }

Created: 2021-09-08 09:53:40 [EST]

(Supp. No. 1, Update 3)

Overnight lodging: A building or group of buildings designed and used primarily for overnight lodging. This definition includes hotels, motels, hostels, bed breakfast inns and similar uses.

Owner: The record owner of record of the real property or person with a legal or equitable interest in the property that entitles the person to conduct the proposed activity, as shown on the latest tax rolls of Clackamas County, or by the deed records of such county, or a person who is purchasing property under contract. In terms of violations and binding agreements between the city and owner, the owner shall also mean leaseholder, tenant, or other person in possession or control of the premises or property at the time of agreement or of violation of agreement or the provisions of this Code. Owner shall also mean authorized representative.

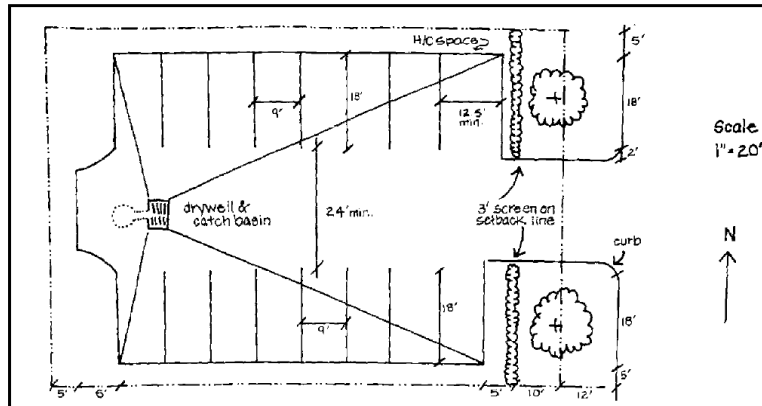
Parapet: An extended wall surrounding a roof, typically a decorative wall constructed of the same materials as the supporting wall. The parapet serves as building cap and may be stepped (Stepped Parapet) to provide visual relief (articulation) and a transition between buildings of dissimilar height.

Parking area, private: A privately owned property, other than streets and alleys, on which parking spaces are defined, designated, or otherwise identified for use by the tenants, employees, or owners of the property for which the parking area is required by this title and not open for use by the general public.

Parking area, public: An area permanently available, other than streets and alleys, on which parking spaces are defined, designated, or otherwise identified for use by the general public which is open for use by the general public, either free or for remuneration. Public parking areas may include parking lots, which may be required by this title for retail customers, patrons, and clients.

Parking bay: Rows of parking separated by an aisle. A parking bay may be single-loaded (parking on one side only) or double-loaded (on both sides).

Parking space: Parking space means an area permanently available for the parking of an automobile.



Typical Parking Area Example

Participant: A person or entity that submitted written or oral comments in compliance with the time lines set in the procedure type, or at the public hearing. Merely signing a petition does not constitute participation.

Pedestrian-scale: The placement, proportioning, and detailing of building and site design elements resulting in an environment that is comfortable and inviting to pedestrians. Examples of elements that are regulated with the intent of creating pedestrian scale include, but are not limited to: pedestrian ways, parking facilities, street furnishings, civic spaces, building entrances, building articulation, divisions between first and second building stories, weather protecting canopies or awnings, transparent storefront windows, fences, walls, and landscape screening and buffering.

{00789769; 1 }

Created: 2021-09-08 09:53:40 [EST]

(Supp. No. 1, Update 3)

Percent of slope: The ratio of vertical distance to horizontal distance (rise divided by run times 100). For example, a 1:4 slope (one-foot rise over a four foot run times 100) is a 25 percent slope.

Pergola: A structure forming a shaded walk or passageway. Pillars support cross beams and a sturdy open lattice, upon which woody vines are typically trained. It may also be part of a building, as protection for an open terrace or civic space.



Pergola Example

Person: An individual, corporation, governmental agency, business trust, estate, trust, partnership, association, two or more people having a joint or common interest, or any other legal entity.

Plat: Refers to a final subdivision plat, replat or partition plat.

Plat, partition: A final map, diagram, drawing, replat, or other writing containing all the descriptions, locations, specifications, provisions and information concerning a partition.

Plat, subdivision: A final map, diagram, drawing, replat, or other writing containing all the descriptions, locations, specifications, dedications, provisions, and information concerning a subdivision.

Portico: A porch leading to the entrance of a building, or extended as a colonnade, with a roof structure over a walkway, supported by columns or enclosed by walls.

Practicable: Capable of being effected, feasible.

Preschool: A facility providing care for children 36 months of age to school age that is primarily educational for four hours or less per day and where no preschool child is present at the facility for more than four hours per day.

Primary structure/store/building: The structure or building housing the largest use on a site, as determined by floor area, occupancy rating, trip generation, or similar criteria.

Professional office: An office of a practitioner of an occupation or calling requiring the practice of an art or science through specialized knowledge based on a degree issued by an institution of higher learning.

Property line adjustment: The relocation of a common property boundary where an additional unit of land is not created and where an existing unit of land reduced in size by the adjustment complies with any applicable development district regulation.

Public facility: Public facilities include, but are not limited to, sanitary sewer, water, storm drainage, street, communication, electrical and natural gas facilities necessary to support development. There are two types of public facilities:

{00789769; 1 }

Created: 2021-09-08 09:53:40 [EST]

(Supp. No. 1, Update 3)

Public facility, major: Any public service improvement or structure developed by or for a public agency that is not defined as a minor public facility, including but not limited to electrical substations, sewer and water treatment plants, water reservoirs, trunk lines, regional stormwater detention facilities, new or expanded public buildings designed for human occupancy that increase traffic within a neighborhood, and active park improvements such as ball fields or restroom facilities.

Public facility, minor: Minor utility structures (e.g., poles, lines, pipes); minor sewer, water and storm drainage structures and collection system improvements (e.g., pump stations, lines, maintenance holes, valves, hydrants, drains, on-site detention facilities); new or extended public streets (including lane additions); minor improvements to existing streets (e.g., overlays, catch basins, signs, control devices, widening, curbs, gutter, sidewalks); minor transit improvements (e.g., bus stops or shelters); passive park improvements (e.g., trails, benches, native plantings or picnic areas); and transportation improvements identified in the adopted Transportation System Plan.

Quasi-judicial decision: Similar to a court proceeding where affected parties are afforded more procedural safeguards. The quasi-judicial process is characteristic of most meetings of the Planning Commission. Personal notice must be mailed to property owners and occupants living within a prescribed distance of the affected area. Unlike legislative decisions, Planning Commission members are expected to avoid outside discussion of the business at hand, and they must declare ex parte contacts. (See "Legislative Decision.")

Recreational vehicle: A vacation trailer or other vehicle or portable unit built on a single chassis, which is either self-propelled or towed or is carried by a motor vehicle and which is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

Recreational vehicle (area of special flood hazard): A vehicle which is:

- A. Built on a single chassis;
- B. Four hundred square feet or less when measured at the largest horizontal projection;
- C. Designed to be self-propelled or permanently towable by a light duty truck; and
- D. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Recreational vehicle park: Any lot of land upon which two or more recreational vehicle sites are located, established, or maintained for occupancy for recreational vehicles of the general public as temporary living quarters, for recreation or vacation purposes. An RV park is intended for use on a temporary basis by campers, vacationers, or travelers.

Remand: A remand shall be conducted in compliance with the procedure type issued by the decision maker upon its initial review of the application unless otherwise specified in the remand order.

Replat, major: The reconfiguring of lots in a recorded subdivision plat that results in either the creation of four or more additional lots, deletion of four or more lots, or reconfiguring of four or more lots.

Replat, minor: The reconfiguring of a portion of the lots in a recorded subdivision or partition plat that results in three or fewer lots being created, deletion of three or fewer lots, or reconfiguring of three or fewer lots.

Reserve strip: A narrow strip of land overlaying a dedicated street reserved to the City for control of access until such time as additional right-of-way is accepted by the City for continuation or widening of the street.

Residential facility: A residential care facility, residential training facility, residential treatment facility, residential training facility, residential training home or residential treatment home licensed by or under the authority of the Department of Human Resources under ORS 443.000 to 443.825 which provides residential care alone or in conjunction with treatment or training or a combination thereof for five or fewer individuals who need not be related. Required staff persons shall not be counted in the number of residents and need not be related to

{00789769; 1 }

Created: 2021-09-08 09:53:40 [EST]

(Supp. No. 1, Update 3)

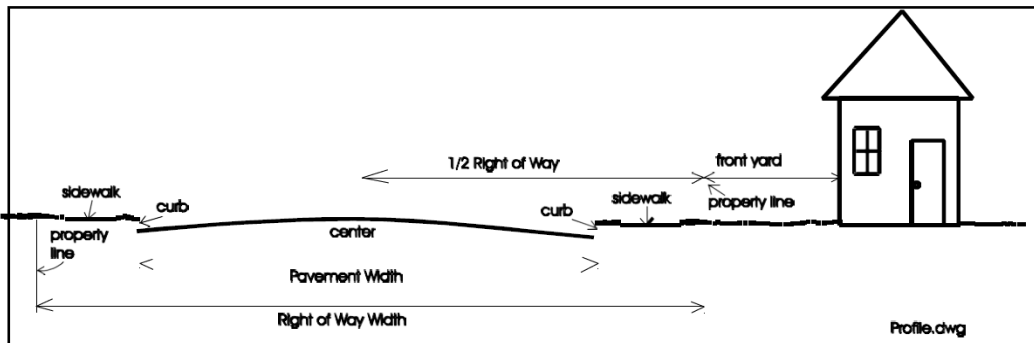
each other, the residents or the facility owner or operator. This definition includes adult foster homes. All exclusions set forth in ORS 443.715 are excluded from this definition.

Restaurant, drive-in: A retail outlet where food or beverages are sold to a substantial extent for consumption by customers in parked motor vehicles.

Restaurant, fast food: An establishment that offers quick food service of items already prepared and held for service, or prepared, fried, griddled quickly or heated in a device such as a microwave oven. Orders are not generally taken at the customer's table and food is generally served in disposable wrapping or containers.

Retention facility: A facility to collect and hold stormwater runoff with no surface outflow.

Right-of-way: A public way dedicated for vehicular, bicycle or pedestrian use.



Right-of-way example

Riparian area: The area adjacent to a river, lake, or stream, consisting of the area of transition from an aquatic ecosystem to a terrestrial ecosystem.

Row house: More than two units, often with two stories and with ground floor access, on individual lots.

Rusticated: A texture produced in ashlar (i.e., dressed stone work) masonry with deep cut 'V' or square joints to contrast with smooth masonry.



Rusticated stone work example

Sandy Style: An architectural style developed in the City of Sandy, Oregon that expresses elements of or reflects Cascadian Architecture by adapting appropriate elements of English Arts and Crafts Style (1900—1920) and Oregon Rustic Style (1915—1940) or similar elements.

{00789769; 1 }

Created: 2021-09-08 09:53:40 [EST]

(Supp. No. 1, Update 3)

School: A facility that provides a curriculum of elementary and secondary academic instruction, including kindergartens, elementary schools, junior high or middle schools, and high schools.

Sediment: Any material that is in suspension, is being transported, or has been moved from its site of origin by water, wind, or gravity as a result of erosion.

Senior housing complex: A housing development designed for or occupied solely of persons over the age of 60 years.

Service building: A structure in a manufactured (mobile) home or recreational vehicle park containing laundry, restrooms or showers, intended to serve the needs of the residents of the park.

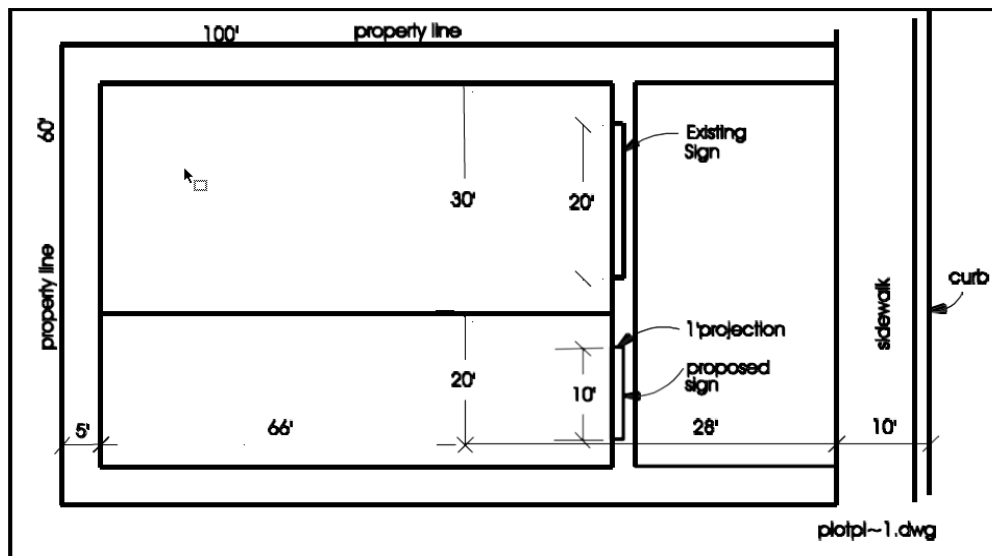
Setback: The minimum allowable horizontal distance from a given point or line of reference, which for purposes of this chapter shall be the property line, to the nearest vertical wall of a building or structure, fence, or other elements as defined by this Code.

Shed dormer: Often used in gable-roofed structures, a shed dormer has a single-planed roof, pitched (sloping away from the structure) at a shallower angle than the main roof.

Shopping center: A grouping of retail business and service uses on a single site with common parking facilities.

Sidewalk café: An area adjacent to and directly in front of a street-level eating or drinking establishment located within the sidewalk area or pedestrian plaza area of the public right-of-way and used exclusively for dining, drinking, and pedestrian circulation.

Site plan: A plan, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings, structures, uses, and principal site development features proposed for a specific parcel of land.



Site Plan Example

Site: The property subject to a development permit or erosion control plan.

{00789769; 1 }

Created: 2021-09-08 09:53:40 [EST]

(Supp. No. 1, Update 3)

Span (roof): The horizontal distance between the outside faces of bearing wall plates measured at the shortest dimension across the building.

Special flood hazard area (SFHA): See "area of special flood hazard."

Split-face concrete: Concrete masonry units or blocks with a split face, a technique that results in two blocks being manufactured as one unit and later split into two. This gives the blocks a rough face replicating the appearance of natural, quarried stone.



Split-face Concrete Example

Standing seam: A raised joint or rib on a sheet of metal roofing; provides visual relief and may help manage rainwater and snow.

Start of construction (area of special flood hazard): Includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Stepped parapet: A parapet with breaks in elevation, usually in a symmetrical pattern, that provides visual relief along a building elevation and a transition between buildings of dissimilar height. May also screen rooftop equipment such as electrical and mechanical equipment.

Stockpile: On-site storage of any soil, sand, gravel, clay, mud, debris, vegetation, refuse or any other material, organic or inorganic, in a concentrated state.

Story: That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the top story shall be that portion of a building included between the upper surface of the top floor and the ceiling above.

{00789769; 1 }

Created: 2021-09-08 09:53:40 [EST]

(Supp. No. 1, Update 3)

Stream bank, top of: The land area immediately above and regularly confining a water body, including a stream, river or associated wetland. The bank has a notably steeper slope than the surrounding landscape. The "bankfull stage" means the stage or elevation at which water overflows the natural banks or streams or other waters of this state and begins to inundate the upland. In the absence of physical evidence, the two-year recurrence interval flood elevation may be used to approximate the bankfull state. The first major break in the slope between the top of the bank at waterline and the surrounding landscape shall be the "top of bank."

Stream: A channel such as a river or creek that carries flowing surface water, including perennial streams and intermittent streams with defined channels, and excluding human-made irrigation and drainage channels.

Street: Designated in the City of Sandy Transportation System Plan as follows:

- A. *Arterial, major:* These consist of state highways, which carry nearly all vehicle trips entering, leaving, or passing through the Sandy area.
- B. *Arterial, minor:* These interconnect and support the major arterial system and link major commercial, residential, industrial, and institutional areas.
- C. *Residential minor arterial:* A hybrid between minor arterial and collector street which allows moderate to high traffic volumes on streets where over 90 percent of the fronting lots are residential. Intended to provide some relief to the strained arterial system while ensuring a safe residential environment. Right-of-way width shall not be less than 62 feet nor more than 82 feet (or 88 feet if it's a green street with swales on both sides), street shall be a minimum three-lane cross section, and may include on-street parking.
- D. *Collector streets:* These provide both access and circulation within residential neighborhoods and commercial/industrial areas. Right-of-way width shall not be less than 44 feet nor more than 78 feet (or 82 feet if it's a green street with swales on both sides).
- E. *Local streets:* The primary function is to provide access to immediately adjacent land. Service to through-traffic movement on local streets is discouraged. Right-of-way width shall be 50 feet (or up to 56 feet if it's a green street with swales on both sides). Average daily traffic (ADT) shall not exceed 1,000 vehicles/day. Proposed projects that result in more than 1,000 ADT on an existing or proposed local street shall be modified to not exceed the 1,000 ADT threshold on the local street or the proposal may be processed through the procedures in Chapter 17.66 of the Sandy Development Code. Proposed outright permitted projects in the C-1, Central Business District, are exempt from adherence to the ADT standards on local streets.
- F. *Cul-de-sac:* A local street with only one outlet and having a bulb at the opposite end. A cul-de-sac shall not exceed 400 feet in length nor serve more than 20 dwelling units unless a proposal is successfully processed through the procedures in Chapter 17.66 of the Sandy Development Code.
- G. *Green street:* A street with a water quality treatment and/or conveyance swale on either one or both sides. Swales shall be a minimum of eight feet wide. ADT standards and dimensional standards shall adhere to the above classifications depending on the street classification.

Structure: A building or other improvement that is built, constructed or installed, not including minor improvements, such as fences, utility poles, flagpoles, or irrigation system components that are not customarily regulated through zoning ordinances.

Structure (area of special flood hazard): For floodplain management purposes, a structure is a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured dwelling.

Substantial damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

{00789769; 1 }

Created: 2021-09-08 09:53:40 [EST]

(Supp. No. 1, Update 3)

Substantial improvement: Any reconstruction, rehabilitation, addition, repair, or other improvement of a structure the cost of which equals or exceeds 50 percent of the market value of the structure, before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed.

This term does not, however, include either:

- A. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the Director or their designee and which are the minimum necessary to assure safe living conditions; or
- B. Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Surface water management system: All natural and constructed facilities used to regulate the quantity and quality of surface water, including drainage easements, culverts, storm drains, catch basins, drainage ditches, natural drainage ways, stream corridors, rivers, ponds, wetlands and impoundments. A surface or stormwater facility serves one or more of three primary functions:

Detention facility: A facility to temporarily store stormwater runoff and subsequently release it at a slower rate than would otherwise occur.

Retention facility: A facility to collect and hold stormwater runoff with no surface outflow.

Water quality facility: A facility, which physically, chemically or biologically removes pollutants and sediments from stormwater before reaching natural wetlands or streams.

T1-11 siding: A composite panel (plywood) siding material with vertical grooves used extensively in the 1980s; prone to dry rot if not sealed and maintained properly.

Temporary use: A use, intended for limited duration, to be located in a zoning district not permitting such use and not constituting or continuing a nonconforming use or building.

Trailer: A structure constructed for movement on public highways that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed before January 1, 1962, and, in the case of a mobile home, met the construction requirements of Oregon Mobile Home Law in effect at the time of construction, but has not been demonstrated to conform to the requirements of the building code for other residences.

Transfer of development rights: The conveyance of development rights by deed, easement, or other legal instrument authorized by local or state law to another parcel of land and the recording of that conveyance.

Tree: Any living, standing woody plant having a trunk six inches or more in diameter, maximum cross section, at a point 24 inches above mean ground level at the base of the trunk.

Truck terminal: Land and buildings used as a relay station for the transfer of a load from one vehicle to another or one party to another. The terminal cannot be used for permanent or long-term accessory storage for principal land uses at other locations. The terminal facility may include storage areas for trucks and buildings or areas for the repair of trucks associated with the terminal.

Use: An activity or a purpose, for which land or a structure is designed, arranged or intended, or for which it is occupied or maintained.

Variance, area: A dispensation permitted on individual parcels of property as a method of alleviating unnecessary hardship by allowing a deviation from dimensional (i.e., height, bulk, yard, setbacks) requirements of the Code because of unusual or unique conditions.

Variance (area of special flood hazard): A grant of relief by a community from the terms of a floodplain management regulation.

{00789769; 1 }

Created: 2021-09-08 09:53:40 [EST]

(Supp. No. 1, Update 3)

Variance, special: A dispensation permitted for use of structures or buildings as a method of alleviating unnecessary hardship by allowing a reasonable use of a building or structure, which because of unusual or unique circumstances, is denied by the terms of the Code. This type of variance should not be utilized as a substitute for the rezoning process.

Vegetation, native: Vegetation that appears on a list of native vegetation species on file in the Planning Department. In contrast to native vegetation, invasive, exotic or introduced vegetation was imported to Sandy over the last few centuries, and can crowd out native vegetation species.

Vegetation removal: Removal of vegetation within constrained or unbuildable areas governed by the FSH Overlay District.

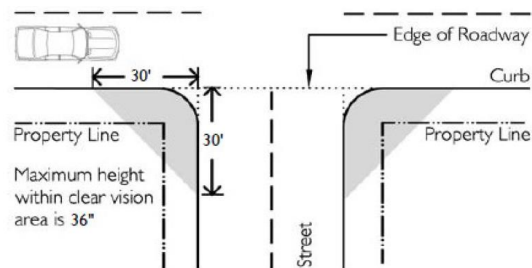
Vehicle: A device in, upon, or by which any person or property is or may be transported upon a public highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

Vicinity map: A drawing or diagram, to scale, showing the location of the proposed development in relation to abutting properties, major streets and other known landmarks.

Violation (area of special flood hazard): The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this chapter is presumed to be in violation until such time as that documentation is provided.

Visible (building elevation): A building elevation that can be seen from an abutting public street or civic space. See related figure for "Facing (Building Elevation)."

Vision clearance area: A triangular area located at the intersection of two streets or a street and an alley; two sides of which are measured from the curb line, or when curbs are absent from the edge of asphalt. Specific distances and prohibitions on visual obstructions within vision clearance areas are contained in Chapter 17.74. The third side of the triangle is a line across the corner of the lot joining the ends of the other two sides.



Vision Clearance Example

Visual obstruction: Any fence, hedge, tree, shrub, device, wall, or structure between the elevations of three feet and eight feet above the adjacent curb height or above the elevation of gutter line of street edge where there is no curb, as determined by the City Engineer, and so located at a street, drive, or alley intersection as to limit the visibility of pedestrians or persons in motor vehicles on said streets, drives, or alleys.

Warehousing and distribution: A use engaged in storage, wholesale and distribution of manufactured products, supplies and equipment, but excluding bulk storage or materials that are inflammable or explosive or that create hazardous or commonly recognized offensive conditions.

Water area: The area between the banks of a lake, pond, river, perennial or fish-bearing intermittent stream, excluding human-made farm ponds.

{00789769; 1 }

Created: 2021-09-08 09:53:40 [EST]

(Supp. No. 1, Update 3)

Water quality: Water quality for any stream or wetland is measured in terms of the Oregon Water Quality Index (OWQI). The higher the OWQI score, the higher the quality of the water. The OWQI considers the following parameters:

- A. Water temperature;
- B. Percentage and concentration of dissolved oxygen;
- C. Biochemical oxygen demand;
- D. pH;
- E. Total suspended solids;
- F. Ammonia and nitrate nitrogens;
- G. Total phosphorous; and
- H. Fecal coliforms.

Water quality is degraded when the mean OWQI score for a stream or wetland decreases (or can be expected to decrease) below existing conditions as a result of development.

Wetland: Wetlands generally include, but are not limited to, swamps, marshes, bogs, and similar wet areas. Wetlands are areas inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation. Hydrophytic vegetation typically is adapted for life in saturated soils, and under normal circumstances would be found in wetlands.

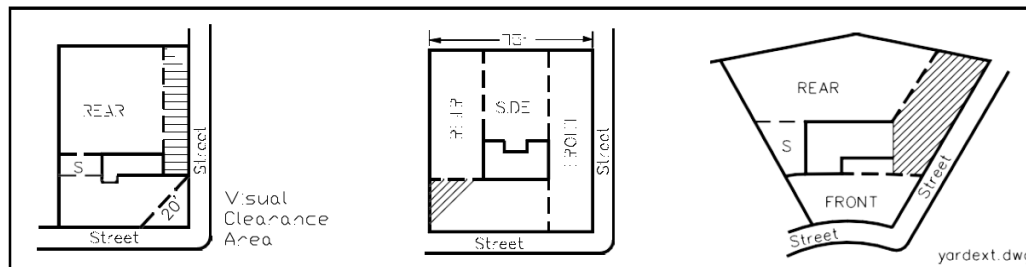
Wetland, locally significant: A wetland that meets the criteria for a "locally significant wetland" in OAR 141-86-340 "Procedures for Identifying Locally Significant Wetlands" and which is identified as such on the City of Sandy Local Wetlands Inventory (2001).

Wheel stop: A physical obstruction used to prevent a car from moving beyond a predetermined point, usually installed on the pavement.

Yard: An open space unobstructed from the ground upward except as otherwise provided in this Code.

X zone (floodway): Area of minimal to moderate flood hazards as depicted on the FIRM.

Yard, exterior side: A yard extending from the front lot line to the rear lot line on the street side of a corner lot.



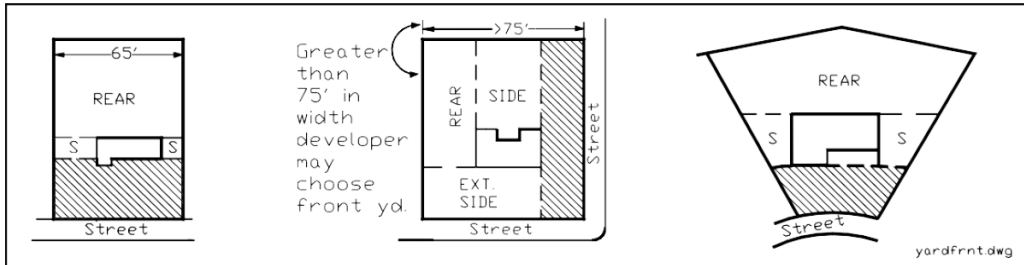
Side Yard (Exterior) Example

Yard, front: A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and a line parallel thereto at the nearest point of the main building.

{00789769; 1 }

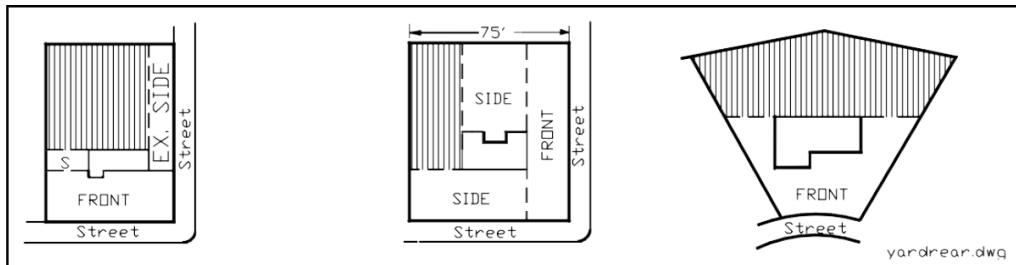
Created: 2021-09-08 09:53:40 [EST]

(Supp. No. 1, Update 3)



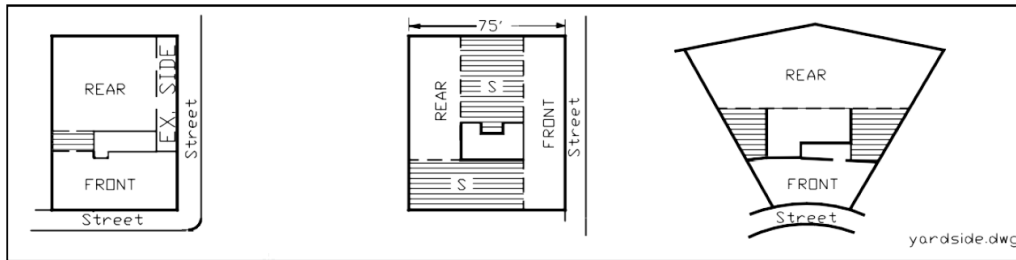
Front Yard Example

Yard, rear: A yard extending across the full width of the lot between the rear main building and the nearest point of the rear lot line.



Rear Yard Example

Yard, side: A yard between the main building and the side lot line extending from the front yard or front lot line where no front yard is required, to the rear lot line. The width of the required side yard shall be measured horizontally from the nearest point of the side lot line to the nearest part of the main building.



Side Yard Example

Zoning district: An area of land within the Sandy City limits, designated for specific types of permitted developments, subject to the development requirements of that district.

(Ord. No. 2021-03 , § 1(Exh. A), 5-17-2021; Ord. No. 2021-16 , § 1(Exh. A), 8-16-2021)

CHAPTER 17.18 PROCESSING APPLICATIONS¹

Sec. 17.18.00. Procedures for processing land use applications.

An application shall be processed under a Type I, II, III or IV procedure. The differences between the procedures are ~~generally~~ associated with the different nature of the decisions as described in Chapter 17.12.

When an application and proposed development is submitted, the Director shall determine the type of procedure the Code specifies for its processing and the potentially affected agencies.

If a development proposal requires an applicant to file a land use application with the eCity (e.g., a design review application) and if there is a question as to the appropriate procedure to guide review of the application (e.g., a Type II versus a Type III design review process), the question will be resolved in favor of the lower type number.

If a development proposal requires an applicant to file more than one land use application with the eCity (e.g., a design review application and a variance) and if the development code provides that the applications are to be reviewed under separate types of procedures (e.g. a Type II design review and a Type III variance):

The Director ~~shall will generally~~ elevate all of the required applications to the highest number procedure for review (e.g., the Type II design review application would be reviewed by the Planning Commission along with the Type III variance).

~~In situations where an applicant has attended a pre-application conference and has reviewed the application with the Director prior to submitting the applications, the Director may exercise his/her discretion to review the Type II application(s) at the staff level and only schedule a public hearing for the Type III portion(s) of the development proposal.~~

Sec. 17.18.10. Coordination of permit procedure.

The Director shall be responsible for the coordination of the permit application and decision-making procedure and shall issue any necessary permits to an applicant whose application and proposed development is in compliance with the provisions of this Code. Sufficient information shall be submitted to resolve all determinations that require furnishing notice to persons other than the applicant. In the case of a Type II or Type III procedure, an applicant may defer submission of details demonstrating compliance with standards where such detail is not relevant to the approval under those procedures. Before issuing any permits, the Director shall be provided with the detail required to establish full compliance with the requirements of this Code.

Sec. 17.18.20. Pre-application conference.

A pre-application conference is required for all Type II, III, and IV applications unless the Director determines a conference is not needed. A request for a pre-application conference shall be made on the form provided by the city and will be scheduled following submittal of required materials and payment of fees. The purpose of the conference is to acquaint the applicant with the substantive and procedural requirements of the Code, provide for

¹Editor's note(s)—Pre-republication, this chapter was last revised by Ord. No. 2013-11, effective December 18, 2013. Any amendments occurring post-republication have a history note in parenthesis at the bottom of the amended section.

{00789755; 1 }

an exchange of information regarding applicable elements of the Comprehensive Plan and development requirements, ~~arrange such technical and design assistance which will aid the applicant,~~ and to otherwise identify policies and regulations that create opportunities or pose significant constraints for the proposed development. The Director will provide the applicant with notes from the conference within 10 days of the conference. These notes may include confirmation of the procedures to be used to process the application, a list of materials to be submitted, and the applicable code sections and criteria that may apply to the application. Any opinion expressed by the Director or City staff during a pre-application conference regarding substantive provisions of the City's code is advisory and is subject to change upon official review of the application.

Sec. 17.18.30. Land use application materials.

Unless otherwise specified in this Code, an application shall consist of the materials specified in this section, plus any other materials required by this Code.

- A. A completed application form and payment of fees.
- B. List and two sets of mailing labels of Affected Property Owners.
- C. An explanation of intent, stating the nature of the proposed development, reasons for the request, pertinent background information, information required by the Development Code and other material that may have a bearing in determining the action to be taken.
- D. Proof that the applicant is the owner of the property, ~~affected by the application is in the exclusive ownership of the applicant,~~ that the applicant has the consent of all parties in ownership of the affected property, ~~or~~ the applicant is the contractual owner, or the applicant is an entity with condemnation authority.
- E. Legal description of the property affected by the application.
- F. Written narrative addressing applicable code chapters and approval criteria.
- G. Vicinity Map showing site in relation to local and collector streets, plus any other significant features in the nearby area.
- F. Site plan of proposed development
- G. Number of Copies to be Submitted:
 1. One hard copy and one digital copy of items A through D listed above;
 2. Type I through Type IV: Two hard copies and one digital copy of the site plan and other materials required by the Code.
 - ~~3. Type II: Eight copies of site plan and other materials required by the Code~~
 - ~~4. Type III: 15 copies of site plan and other materials required by the Code~~
 - ~~5. Type IV: 20 copies of site plan and other materials required by the Code~~

The Director may vary the quantity of materials to be submitted as deemed necessary.

Sec. 17.18.40. Application acceptance and completeness review.

- A. *Acceptance.* When an application is received by the City, the Director or designee shall determine whether the following essential items are present. If the following items are not present, the application shall not be accepted by the City and it shall be returned to the applicant:
 1. The required form;

{00789755; 1 }

Created: 2021-09-08 09:53:41 [EST]

(Supp. No. 1, Update 3)

-
2. The required fee;
 3. The signature of the applicant on the required form and signed written authorization of the property owner ~~of record~~ or other entity described in Section 17.18.30(D) if the applicant is not the owner.
- B. *Completeness Review.* After an application is accepted, the Director or designee shall review the application for completeness. If the application is incomplete, the Director or designee shall notify the applicant in writing of what information is missing within 30 days of receipt of the application, except for expedited land divisions pursuant to Section 17.18.120, and allow the applicant to submit the missing information.
- C. *Application deemed complete for review.* In accordance with the application submittal requirements, the application shall be deemed complete upon the receipt by the Director or designee of:
1. All of the missing information identified by the Director; or
 2. Some of the missing information and written notice that no other information will be provided to the City; or
 3. Written notice that none of the missing information will be provided to the City.
- D. *Application void.* On the 181st day after first being submitted, including expedited land divisions, the application is void if the Director has notified the applicant of missing information and the applicant has not responded as described in subsection C.1., C.2., ~~and~~ or C.3., above.

Sec. 17.18.50. Referral and review of applications.

Within ~~ten~~ 10 working days of accepting an application as complete, the Director shall:

- A. Transmit one copy of the application, or appropriate parts of the application, to each referral agency for review and comment, including those responsible for determination of compliance with state and federal requirements.
- B. If a Type II, III or IV procedure is required, provide for notice and hearing as set forth in Chapters 17.20 and 17.22.

Sec. 17.18.60. Staff evaluation.

The Director shall prepare a report that evaluates whether the proposal complies with the review criteria.

Sec. 17.18.70. Type II development decision.

- A. Within 60 days of the date of accepting an application, the Director shall grant or deny the request. The decision of the Director shall be based upon the application, the evidence, comments from referral agencies and affected property owners, and approvals required by others. After the decision is made, the Director shall notify the applicant and, if required, others entitled to notice of the disposition of the application. The notice shall indicate the date that the decision will take effect and describe the right of appeal pursuant to Chapter 17.28.
- B. The Director shall approve a development if he finds that applicable approvals by others have been granted and the proposed development otherwise conforms to the requirements of this Code.
- C. The Director shall deny the development if required approvals are not obtained or the application otherwise fails to comply with Code requirements. The notice shall describe the reason for denial.

{00789755; 1 }

Created: 2021-09-08 09:53:41 [EST]

(Supp. No. 1, Update 3)

Sec. 17.18.80. Type III or IV decision.

The Director shall schedule a public hearing in accordance with procedures listed in Chapter 17.20.

Sec. 17.18.90. Reapplication following denial.

Upon final denial of a development proposal or a denial of an annexation request by the City Council or the voters, a new application for the same development or any portion thereof or the same annexation or any portion thereof may not be heard for a period of one year from the date of denial. Upon consideration of a written statement by the applicant showing how the proposal has been sufficiently modified to overcome the findings for denial or that conditions have changed sufficiently to justify reconsideration of the original of a similar proposal, the Director may waive the one-year waiting period.

Sec. 17.18.100. Legislative enactments not restricted.

Nothing in ~~Chapter~~ [Title](#) 17 shall limit the authority of the City Council to make changes in zoning districts or requirements as part of some more extensive revision of the Comprehensive Plan or the implementing ordinances. Nothing in this article shall relieve a use or development from compliance with other applicable laws.

~~**Sec. 17.18.110. Expedited land division.**~~

~~A land division shall be processed pursuant to the expedited land division procedures set forth in ORS Chapter 197 if (a) the land division qualifies as an expedited land division as that term is defined in ORS Chapter 197 and (b) the applicant requests the land division to be processed as an expedited land division.~~

Sec. 17.18.120. 120-day rule; time computation.

- A. *Final Decision.* Except as allowed for Type IV decisions and applications subject to Section 17.18.120, a land use decision on a "permit" as that term is defined in state law must be finalized, including resolution of any local appeal by the City Council, no later than 120 days from the date the application is deemed complete, unless the applicant requests an extension in writing.
- B. *Time Computation.* In computing any period of time prescribed or allowed by this Code, the day of the act or event from which the specified period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday, or legal holiday, including a holiday falling on Sunday, in which event, the period runs until close of business the next day which is not a Saturday, Sunday, or legal holiday.

Sec. 17.18.120. Expedited land division.

A land division shall be processed pursuant to the expedited land division procedures set forth in ORS Chapter 197 if (a) the land division qualifies as an expedited land division as that term is defined in ORS Chapter 197 and (b) the applicant requests the land division to be processed as an expedited land division. Middle housing land division applications shall be processed pursuant to the expedited land division procedures set forth in ORS Chapter 197.360 to 197.380.

A. Expedited land division/ middle housing land division application materials.

{00789755; 1 }

Created: 2021-09-08 09:53:41 [EST]

(Supp. No. 1, Update 3)

1. An expedited land division or middle housing land division application shall consist of the materials specified in Section 17.100.50(C).

B. Expedited land division/ middle housing land division application acceptance.

1. When an expedited land division or middle housing land division application is received by the City, the Director or designee shall determine whether the following essential items are present. If the following items are not present, the application shall not be accepted by the City and it shall be returned to the applicant:

- a. The required form;
- b. The required fee;
- c. The signature of the applicant on the required form and signed written authorization of the property owner of record if the applicant is not the owner.

C. Expedited land division/ middle housing land division completeness.

1. The City shall review an application for an Expedited Land Division or Middle Housing Land Division, and, within 21 days of its receipt, notify the applicant as to whether the application is complete. If the City determines that the application contains sufficient information for review, the City shall advise the applicant in writing that the application is deemed complete and begin the application review process. If the City determines that the application is incomplete, the City shall advise the applicant in writing of the necessary missing information. The City shall begin review of the application either:

- a. Upon receipt of all of the missing information requested by the City; or
- b. Upon receipt of some of the missing information and a written statement from the applicant indicating that none of the other missing information will be provided; or
- c. Upon receipt of a written statement from the applicant indicating that none of the missing information will be provided.

2. If the application was complete when first submitted or the applicant submits the missing information identified by the City within 180 days of the date the application was first submitted, approval or denial of the application will be based on the standards and criteria that were applicable at the time the application was first submitted.

D. Expedited land division/ middle housing land division notice of application.

Within 10 days of the City's determination that an application is complete, but at least 20 days before the Director makes a decision, written notice of the application shall be mailed in accordance with the procedures in Section 17.22.80.

E. Expedited land division/ middle housing land division decision.

Within 63 days of the City's determination that an application is complete, the Director shall approve, conditionally approve, or deny an Expedited Land Division or Middle Housing Land Division application. The decision shall: include a brief statement that explains the criteria and standards considered relevant to the decision; state the facts relied upon in rendering the decision; and explain the justification for the decision based upon the criteria, standards, and facts set forth. After seven days' notice to the applicant, the Planning Commission may, at a regularly scheduled public meeting, take action to extend the 63-day time period to a date certain for one or more applications for an expedited land division or a middle housing land division prior to the expiration of the 63-day period, based on a determination that an unexpected or extraordinary increase in applications makes action within 63 days impracticable. In no case shall an extension be to a date more than 120 days after the

{00789755; 1 }

Created: 2021-09-08 09:53:41 [EST]

(Supp. No. 1, Update 3)

application was deemed complete. The decision to approve or not approve an extension is not a land use decision or limited land use decision.

F. Expedited land division/ middle housing land division notice of decision.

Within five (5) days after the Director renders a decision, but within the 63 days as noted in Section 17.18.120 (C), notice of the decision shall be mailed in accordance with the procedures in Section 17.22.100. Unless appealed according to the procedures in Chapter 17.28, the Director's decision is effective on the 15th day after notice of the decision is mailed.

{00789755; 1 }

Created: 2021-09-08 09:53:41 [EST]

(Supp. No. 1, Update 3)

Page 6 of 6

CHAPTER 17.22 NOTICES¹

Sec. 17.22.00. Intent.

The requirement for notice to affected property owners, governmental agencies, public utility [or service providers](#), [and any other person, agency, or organization that has filed with the Director a request to receive notices of hearings and has paid a reasonable fee to cover the cost of providing notice etc.](#), is intended to provide those persons and entities an opportunity to comment on a proposed development and to afford interested parties the opportunity to participate in the land use decision making process.

Sec. 17.22.10. Type II quasi-judicial notice.

{Where a [Type II](#) quasi-judicial [hearing decision](#) is required by this Code, notice shall be mailed to the following:}

- A. The applicant or authorized agent;
- B. Any person who owns property within 300 feet, ~~excluding street right of way,~~ of the development site;
- C. Any other person, agency, or organization that may be designated by the Code;
- D. Interested parties, such as counties, state agencies, [or public utility or service providers](#), ~~ies, etc.~~, that may be affected by the specific development proposal shall receive notice of the scheduled public hearing;
- E. Additional notices may also be mailed to other property owners or posted as determined appropriate by the Director and based on the impact of the proposed development.

Sec. 17.22.20. Type III [and Type IV](#) quasi-judicial notice.

Where a [Type III](#) quasi-judicial [hearing decision](#) is required by this Code, notice shall be mailed to the following:

- A. The applicant or authorized agent;
- B. Any person who owns property within 500 feet, ~~excluding street right of way,~~ of the development site, except [an application for as otherwise authorized by this Code as required by Section 17.78.60, annexation requires a notice distance to the owner\(s\) of property that is within 1,000 feet of the subject property being requested for annexation;](#)
- C. Tenants of any existing manufactured-dwelling park for which a zoning district change is proposed;
- D. Any other person, agency, or organization that has filed with the Director a request to receive notices of hearings and has paid a reasonable fee to cover the cost of providing notice;

¹Editor's note(s)—Pre-republication, this chapter was last revised by Ord. No. 2018-29, effective December 5, 2018. Any amendments occurring post-republication have a history note in parenthesis at the bottom of the amended section.

{00789757; 1 }

-
- E. Any other person, agency, or organization that may be designated by the Code;
 - F. Any other person, agency, or organization that may be designated by the City Council or its agencies;
 - G. Any other resident owner of property whom the Director determines is affected by the application;
 - H. Any neighborhood or community organization recognized by the governing body and whose boundaries include the site;
 - I. Interested parties, such as counties, state agencies, [or public utility or service providers](#), ~~ies, etc.~~, that may be affected by the specific development proposal shall receive notice of the scheduled public hearing;
 - J. Additional notices may also be mailed to other property owners or posted as determined appropriate by the Director and based on the impact of the proposed development.

Sec. 17.22.30. Type IV legislative hearing notice.

- A. The Oregon Department of Land Conservation and Development (DLCD) shall be notified in writing of proposed Comprehensive Plan amendments and Development Code amendments before the first evidentiary hearing in accordance with OAR 660-018-0020. The notice to DLCD shall include an affidavit of transmittal.
- B. Notice shall be sent by mail at least 20 days, but not more than 40 days, prior to the first evidentiary hearing to owners of property if the proposed action would "rezone" the property according to ORS 227.186.
- C. Additional notices may be mailed to other property owners or posted as determined appropriate by the Director based on the impact of the proposed development.

Sec. 17.22.40. Contents of notice.

The notice provided by the City shall:

- A. Explain the nature of the application and the proposed use or uses which could be authorized;
- B. List the applicable criteria from the ~~ordinance and the~~ [Comprehensive Plan](#), [if any, and the Development Code](#) that apply to the application ~~at issue~~:
 - 1. Nature of the proposed development and the proposed uses that could be authorized;
 - 2. Legal description, address, or tax map designations;
 - 3. Map showing the location of a zoning change, subdivision, or proposed development;
 - 4. Name and telephone number of a staff member from whom additional information can be obtained;
 - 5. Where a zone change or subdivision is proposed, the notice shall include the statement that the hearing body may consider modifications to what was requested by the applicant.
- C. Set forth the street address or other easily understood geographical reference to the subject property;
- D. State the date, time, and location of the hearing or the date by which written comments may be submitted, as applicable to the type of land use action;
- E. For quasi-judicial notices, state that failure to raise an issue, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue, prior to the closing of the record of the proceeding, precludes an appeal based on that issue;

{00789757; 1 }

Created: 2021-09-08 09:53:41 [EST]

(Supp. No. 1, Update 3)

-
- F. State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at a reasonable cost;
 - G. For quasi-judicial notices, state that a copy of the staff report will be available for inspection at no cost at least seven calendar days prior to the hearing and will be provided at a reasonable cost; and
 - H. Include a general explanation of the requirements for submission of testimony and the procedures for conducting the hearing.

Sec. 17.22.50. Mailing of notices.

- A. Type III and Type IV notices must be mailed at least:
 - 1. Twenty days before the evidentiary hearing; or
 - 2. If two or more evidentiary hearings are allowed, ten days before the first evidentiary hearing.
- B. Type II Limited Land Use Decision notices must be mailed at least:
 - 1. Fourteen days in advance of a pending Type II decision.

Sec. 17.22.60. Publication of notices.

[A general legal notice containing a link to the City's webpage that lists of upcoming public hearings shall be published in a newspaper of general circulation at least ten days in advance of the hearing at least once per month. Upcoming Type III and IV public hearings, except for hardship permits per Chapter 17.70, shall be posted to the City's social media page a minimum of five \(5\) days prior to the hearing.](#)

Sec. 17.22.70. Continued hearings.

Where a hearing is continued to a date certain, no additional notice need be given.

Sec. 17.22.80 List of property owners

The applicant shall provide a certified list of property owners and mailing labels as required by notice provisions of this Code. Unless otherwise provided, addresses for a mailed notice shall be obtained from the County's real property tax records. Unless the address is on file with the Director, a person whose name is not in the tax records at the time of filing of an application, or of initiating other action not based on an application, need not be furnished mailed notice.

Sec. 17.22.90. Notice of Decision

- A. [Notice of the final decision for a Type II, III, or IV application shall be mailed to the following:](#)
 - 1. [Applicant.](#)
 - 2. [Owner of the subject property.](#)
 - 3. [Any group or individual who submitted written or verbal testimony during the comment period or at a hearing on the application.](#)
 - 4. [Those groups or individuals who requested notice of the decision.](#)
- B. [The notice shall include all of the following:](#)

{00789757; 1 }

Created: 2021-09-08 09:53:41 [EST]

(Supp. No. 1, Update 3)

-
1. A description of the nature of the decision.
 2. An explanation of the nature of the application and the proposed use or uses which could be authorized.
 3. The street address or other easily understood geographical reference to the subject property.
 4. The name of a City representative to contact and the telephone number where additional information may be obtained.
 5. A statement that a copy of the application, all documents and evidence submitted by or on behalf of the applicant, and applicable criteria are available for inspection at no cost and will be provided at reasonable cost.
 6. A statement that the applicant and any person or organization that submitted written comments during the comment period may appeal as provided in Chapter 17.28.
 7. A statement that the decision will not become final until the period for filing a local appeal has expired.
- C. Unless appealed according to the procedures in Chapter 17.28, the decision is effective on the 12th day after the final order is issued and the notice of the decision is mailed.

Sec. 17.22.100. Expedited Land Division/Middle Housing Land Division Notice of Application

- A. Within 10 days of the City's determination that an application is complete, but at least 20 days before the Director makes a decision, written notice of the application shall be mailed to all of the following, using information from the most recent property tax assessment roll:
1. Applicant.
 2. Owners of the subject property.
 3. Owners of properties located within 100 feet of the perimeter of the subject property.
 4. Interested parties that have submitted written requests for notification.
 5. Any state agency, local government, or special district responsible for providing public facilities or services to the subject property.
- B. The notice shall include all of the following:
1. The street address or other easily understood geographical reference to the subject property.
 2. The applicable criteria for the decision.
 3. The place, date, and time that comments are due.
 4. A statement that copies of all evidence relied upon by the applicant are available for review and can be obtained at cost.
 5. A statement that issues that may provide the basis for an appeal to the municipal judge must be raised in writing prior to the end of the comment period and with sufficient specificity to enable the municipal judge to respond to the issue.
 6. The name and phone number of a City contact person.
 7. A brief summary of the local decision-making process for the decision being made.

{00789757; 1 }

Created: 2021-09-08 09:53:41 [EST]

~~A.~~ C. The notice shall allow a 14-day period for the submission of written comments, starting from the date of mailing. All comments must be received by the City within that 14-day period.

Sec. 17.22.110. Expedited Land Division/Middle Housing Land Division Notice of Decision

A. Within 63 days from the date an expedited or middle housing land use application was deemed complete, notice of the decision shall be mailed to the following:

1. Applicant.
2. Owners of the subject property.
3. Owners of properties located within 100 feet of the perimeter of the subject property.
4. Interested parties that have submitted written requests for notification.
5. Any state agency, local government, or special district responsible for providing public facilities or services to the subject property.

B. The notice shall include all of the following:

1. A description of the nature of the Director's decision.
2. An explanation of the nature of the application and the proposed use or uses which could be authorized.
3. The street address or other easily understood geographical reference to the subject property.
4. The name of a City representative to contact and the telephone number where additional information may be obtained.
5. A statement that a copy of the application, all documents and evidence submitted by or on behalf of the applicant, and applicable criteria are available for inspection at no cost and will be provided at reasonable cost.
6. A statement that the applicant and any person or organization that submitted written comments during the comment period may appeal as provided in Chapter 17.28.
7. A statement that the decision will not become final until the 14-day period for filing a local appeal has expired.

C. Unless appealed according to the procedures in Chapter 17.28, the Director's decision is effective on the 15th day after the final order is issued and the notice of the decision is mailed.

{00789757; 1 }

Created: 2021-09-08 09:53:41 [EST]

(Supp. No. 1, Update 3)

CHAPTER 17.28 APPEALS¹

Sec. 17.28.00. Intent.

This chapter sets forth procedures for processing an appeal of a decision made by staff, the Planning Commission, or the City Council.

Sec. 17.28.10. Request for review-appeal of decision.

- A. *Type I or Type II Procedure.* An affected party may appeal a Type I or Type II decision to the Planning Commission. Except for an expedited land division, the party must file an appeal with the Director within 12 calendar days of the date the City mails notice of the decision. The notice of appeal shall indicate the nature of the decision that is being appealed. The Director may create and periodically amend an appeal form and require affected parties to use this form to appeal Type I and II decisions. Appeal of an expedited land division is subject to Section 17.28.70.
- B. *Type III Procedure.* An affected party may appeal a decision of the Planning Commission to the City Council. The party must file an appeal within 12 calendar days of notice of the decision. The notice of appeal shall indicate the decision that is being appealed. The Director may create and periodically amend an appeal form and require affected parties to use this form to appeal Type III decisions. The City Council's decision regarding an appeal of a Planning Commission decision is final for the purposes of an appeal to the Land Use Board of Appeals.
- C. *Type IV Procedure.* A Type IV decision of the City Council may be appealed to the Land Use Board of Appeals (LUBA) or to other tribunals in accordance with Oregon law.

Sec. 17.28.20. Requirements of appeal application.

- A. An application for an appeal shall contain at least the following:
 1. An identification of the decision sought to be reviewed, including the date of the decision;
 2. A statement of the interest of the person seeking review and that he/she was a party to the initial proceedings;
 3. The specific grounds relied upon for review;
 4. If de novo review or review by additional testimony and other evidence is requested, a statement relating the request to the factors listed in ~~Chapter-Section~~ 17.28.50; ~~and~~
 5. *Payment of required filing fees.* Payment of required filing fees is jurisdictional and must accompany an appeal at the time it is filed. ~~;~~
 6. The name and mailing address of the person or entity appealing the decision; ~~and~~.

¹Editor's note(s)—Pre-republication, this chapter was last revised by Ord. No. 2018-29, effective December 5, 2018. Any amendments occurring post-republication have a history note in parenthesis at the bottom of the amended section.

-
7. List and two sets of mailing labels for property owners within 300 feet of the subject property (for appeal of a Type I decision), 500 feet of the subject property for appeal of a Type II, III, or IV decision, or 1,000 feet for appeal of an annexation request. The property owner list and labels shall be obtained from a Title Company no more than 7 days prior to submitting the appeal.

Sec. 17.28.30. Scope of review.

Except where a de novo hearing is required ~~for review of Type II (Limited Land Use) decisions~~, an appeal is limited to a review of the record and a hearing for receipt of oral arguments regarding the record. At its discretion ~~and if good cause has been demonstrated by the appellant or City staff~~, the hearing body may allow an appeal to include new evidence on specific issues ~~based upon circumscribed issues relevant to the appeal~~, or it may allow a full de novo hearing.

Sec. 17.28.40. Review on the record.

Unless otherwise provided under Section 17.28.50, review of the decision on appeal shall be confined to the record of the proceeding as specified in this section. The record shall include:

- A. A factual report prepared by the Director;
- B. All exhibits, materials, pleadings, memoranda, stipulations and motions submitted by any party and received or considered in reaching the decision under review; and.
- C. The transcript of the hearing below, if previously prepared; otherwise, a detailed summary of the evidence, but the details need not be set forth verbatim.

The reviewing body shall make its decision based upon the record after first granting the right of argument but not the introduction of additional evidence to any party who has filed a notice of appeal.

Sec. 17.28.50. Review consisting of additional evidence or de novo review.

- A. Except where a de novo hearing is required ~~for review of Type II (Limited Land Use) decisions~~, the reviewing body may hear the entire matter de novo; or it may admit additional testimony and ~~other~~ evidence on specific issues ~~without holding a de novo hearing if it determines is satisfied~~ that the additional testimony or other evidence could not reasonably have been presented and included in the earlier decision ~~at the prior hearing~~. The reviewing body shall consider all of the following in making such a decision:
 1. Prejudice to the parties;
 2. Convenience or availability of evidence at the time of the initial hearing;
 3. Surprise to opposing parties; and.
 4. The competency, relevancy, and materiality of the proposed testimony or other evidence.
- B. *De novo hearing* ~~shall mean~~ a hearing at which the issues, evidence and testimony are not limited ~~by the review body as if the action had not been previously heard and as if no decision had been rendered, except that a~~ All testimony, evidence, and other material from the prior decision ~~record of the previous consideration~~ shall be included in the record of the review.

Sec. 17.28.60. Review body decision.

Upon review, the review body may by order affirm, reverse, or modify in whole or in part a determination or requirement of the decision that is under review. When the review body modifies or renders a decision that reverses a decision of the hearing body, the review body, in its order, shall set forth its finding and state its reasons

{00789759; 1 }

Created: 2021-09-08 09:53:42 [EST]

(Supp. No. 1, Update 3)

for taking the action encompassed in the order. When the review body elects to remand the matter back to the hearing body for such further consideration as it deems necessary, it shall include a statement explaining the error found to have materially affected the outcome of the original decision and the action necessary to rectify it.

Sec. 17.28.70. Expedited Land Division or Middle Housing Land Division Appeal.

A. Filing an Appeal of the Director's Decision on Expedited Land Division or Middle Housing Land Division Application.

- 1. Within 14 days of the date of the mailing of notice of the Director's decision on an Expedited Land Division application or a Middle Housing Land Division application, the decision may be appealed to the municipal judge by:**
 - a. The applicant.**
 - b. Any group or individual who submitted written comments during the 14-day comment period identified in the notice mailed pursuant to Chapter 17.22.**
- 2. The appeal shall be submitted on a form approved by the Director, be accompanied by a deposit for costs established by the City's Master Fee Schedule and two sets of mailing labels for property owners within 100 feet of the subject property, and be received by the city no later than 5:00 p.m. on the 14th day after the notice of decision is mailed. The record from the Director's proceeding shall be forwarded to the municipal judge. New evidence shall be accepted.**
- 3. The appeal shall include a statement of issues on appeal. The appeal statement shall explain specifically how:**
 - a. The Director's decision violates the substantive provisions of land use regulations applicable to the application;**
 - b. The Director's decision is unconstitutional;**
 - c. The application is not eligible for review under the procedures for an expedited or middle housing land division review in Chapter 17.18; or**
 - d. The parties' substantive rights have been substantially prejudiced by an error in procedure made by the City.**

B. Notice of Appeal Procedure for an Expedited Land Division or Middle Housing Land Division.

- 1. Within seven (7) days of the date an appeal is filed, City staff, on behalf of the municipal judge, shall mail written notice of the appeal to all of the following:**
 - a. Applicant.**
 - b. Owner of the subject property.**
 - c. Appellant.**
 - d. Any person or organization entitled to notice under Section 17.22.80 that provided written comments prior to the close of the public comment period identified in the notice mailed pursuant to Section 17.22.80.**
 - e. Any state agency, local government, or special district responsible for providing public facilities or services to the subject property.**
- 2. The notice shall include all of the following:**

{00789759; 1 }

Created: 2021-09-08 09:53:42 [EST]

(Supp. No. 1, Update 3)

-
- a. The street address or other easily understood geographical reference to the subject property.
 - b. The applicable criteria for the decision.
 - c. The nature of the application and the proposed use or uses which could be authorized.
 - d. An explanation of the requirements for submission of testimony and appeal procedures.
 - e. A statement that copies of the application and all evidence and documents submitted by or on behalf of the applicant are available for review, and that copies can be obtained at cost.
 - f. The name and telephone number of a City contact person.
 - ~~a.~~ g. A statement that a person or organization that provided written comments to the Director prior to the close of the public comment period identified in Section 17.22.80, but did not file an appeal within the time set by Section 17.28.70(A.1), may participate in the appeal only with respect to the issues raised in the written comments submitted to the Director by that person or organization.

C. Appeal Procedure for an Expedited Land Division or Middle Housing Land Division.

1. Only written evidence and argument will be accepted unless the municipal judge conducts a public hearing, in which case those parties who submitted comments on the original middle housing land division application (Director's decision) may testify.
2. The municipal judge may use any appeal procedure that is consistent with the interests of the parties and will ensure a fair opportunity to present information and argument.
3. The municipal judge shall provide the City an opportunity to explain the Director's decision, but the municipal judge is not limited to reviewing the Director's decision and may consider information not presented to the Director.
4. A person or organization that provided written comments to the Director prior to the close of the public comment period identified in Section 17.22.80, but did not file an appeal within the time set by Section 17.28.70(A.1), may participate in the appeal only with respect to the issues raised in the written comments submitted to the Director by that person or organization.

D. Decision for an Expedited Land Division or Middle Housing Land Division.

1. The municipal judge shall issue a written decision on an appeal of an Expedited Land Division application or a Middle Housing Land Division application within 42 days of the date the appeal is received by the City.
2. Except as provided in subsection (5) of Section 17.28.70(D), the municipal judge shall affirm, reverse, or modify the decision of the Director. Before reversing or modifying the Director's decision, the municipal judge shall make findings and conclusions clearly stating how the Director failed to properly evaluate the application or render a decision consistent with applicable criteria. The municipal judge shall seek to identify means by which the application can satisfy the applicable approval criteria.
3. The decision of the municipal judge is final.
4. The municipal judge's decision is not a land use decision or limited land use decision.
5. If the municipal judge finds that the application does not qualify as an Expedited Land Division application or a Middle Housing Land Division application, the municipal judge shall remand the application to the appropriate initial decisionmaker for consideration as a land use application or limited land use application.

{00789759; 1 }

Created: 2021-09-08 09:53:42 [EST]

(Supp. No. 1, Update 3)

6. The municipal judge's decision may not reduce the density of an Expedited Land Division application.

7. The municipal judge shall assess the costs of the appeal as follows:

a. If the municipal judge's decision materially improves the appellant's position in comparison to the Director's decision, the municipal judge shall order the City to refund the deposit for costs required by Section 17.28.70(A.2) to the appellant.

b. If the municipal judge's decision does not materially improve the appellant's position in comparison to the Director's decision, the municipal judge shall order the appellant to pay to the City the costs of the appeal that exceed deposit required by Section 17.28.70(A.2), up to a maximum of \$500.

8. As used in subsection (7), "costs of the appeal" include the compensation paid the municipal judge and other costs incurred by the City, but not the costs incurred by other parties.

E. Notice of Decision of an Appeal of an Expedited Land Division or Middle Housing Land Division.

1. Within five (5) days after the date of the municipal judge's decision on the appeal of an Expedited Land Division application or a Middle Housing Land Division application, notice of the decision shall be mailed to all of the following:

a. Applicant.

b. Appellant.

c. Any person who provided testimony or evidence in a timely manner during the appeal.

d. Any person who requested notice of the appeal decision.

2. The notice shall:

a. Summarize the decision of the municipal judge.

~~a.~~b. State that the decision may be appealed as provided in ORS 197.375.

{00789759; 1 }

Created: 2021-09-08 09:53:42 [EST]

(Supp. No. 1, Update 3)

Page 5 of 5

CHAPTER 17.34 SINGLE-FAMILY RESIDENTIAL (SFR)¹

Sec. 17.34.00. Intent.

~~The~~This district is intended to implement the Low Density Residential Comprehensive Plan designation by providing for low-density residential development in specific areas of the city. The purpose of this district is to primarily allow ~~limited development of property while not precluding more dense future development~~single-family dwellings and duplexes, as urban services become available. Density shall not be less than three or more than 5.8 units per net acre.

Sec. 17.34.10. Permitted uses.

A. *Primary Uses Permitted Outright:*

1. Single detached dwelling subject to design standards in Chapter 17.90;
2. Single detached manufactured dwelling subject to design standards in Chapter 17.90;
3. Duplex.

B. *Accessory Uses Permitted Outright:*

1. Accessory dwelling unit subject to the provisions in Chapter 17.74;
2. Accessory structure, detached or attached subject to the provisions in Chapter 17.74;
3. Family day care, as defined in Chapter 17.10 subject to any conditions imposed on the residential dwellings in the zone;
4. Home business subject to the provisions in Chapter 17.74;
5. Livestock and small animals, excluding carnivorous exotic animals: The keeping, but not the propagating, for solely domestic purposes on a lot having a minimum area of one acre. The structures for the housing of such livestock shall be located within the rear yard and at a minimum distance of 100 feet from an adjoining lot in any residential zoning district;
6. Minor utility facility;
7. Other development customarily incidental to the primary use.

(Ord. No. 2021-03 , § 3(Exh. C), 5-17-2021)

Sec. 17.34.20. Minor conditional uses and conditional uses.

A. *Minor Conditional Uses:*

¹Editor's note(s)—Pre-republication, this chapter was last revised by Ord. No. 2013-11, effective December 18, 2013. Any amendments occurring post-republication have a history note in parenthesis at the bottom of the amended section.

-
1. Accessory structures for agricultural, horticultural or animal husbandry use in excess of the size limits in Chapter 17.74;
 2. Single detached or attached zero lot line dwelling;
 3. Projections or free-standing structures such as chimneys, spires, belfries, domes, monuments, fire and hose towers, observation towers, transmission towers, flagpoles, radio and television towers, masts, aerials, cooling towers and similar structures or facilities not used for human occupancy exceeding 35 feet in height;
 4. Other uses similar in nature.
- B. *Conditional Uses:*
1. Community services;
 2. Funeral and interment services, cemetery, mausoleum or crematorium;
 3. Golf course and club house, pitch-and-putt, but not garden or miniature golf or golf driving range;
 4. Hospital or home for the aged, retirement, rest or convalescent home;
 5. Lodges, fraternal and civic assembly;
 6. Major utility facility;
 7. Preschool, orphanage, kindergarten or commercial day care;
 8. Residential care facility (ORS 443.000 to 443.825);
 9. Schools (public, private, parochial or other educational institution and supporting dormitory facilities, excluding colleges and universities);
 10. Other uses similar in nature.

(Ord. No. 2021-03 , § 3(Exh. C), 5-17-2021)

Sec. 17.34.30. Development standards.

Type	Standard	
A. <i>Minimum Lot Area</i>	Single detached dwelling or duplex	7,500 square ft.
	Other permitted uses	No minimum
B. <i>Minimum Average Lot Width</i>	Single detached dwelling or duplex	60 ft.
C. <i>Minimum Lot Frontage</i>		20 ft. except as allowed by Section 17.100.160
D. <i>Minimum Average Lot Depth</i>	No minimum	
E. <i>Setbacks (Main Building)</i>	Front yard	10 ft. minimum
	Rear yard	20 ft. minimum
	Side yard (interior)	7.5 ft. minimum
	Corner Lot	10 ft. minimum on side abutting the street ¹
F. <i>Setbacks (Garage/Carport)</i>		22 ft. minimum for front vehicle access 15 ft. minimum if entrance is perpendicular to street (subject to Section 17.90.220)

(Supp. No. 1, Update 3)

Created: 2021-09-08 09:53:42 [EST]

	5 ft. minimum for alley or rear access
<i>G. Projections into Required Setbacks</i>	See Chapter 17.74
<i>H. Accessory Structures in Required Setbacks</i>	See Chapter 17.74
<i>I. Structure Height</i>	35 ft. maximum
<i>J. Building Site Coverage</i>	No minimum
<i>K. Off-Street Parking</i>	See Chapter 17.98

Footnote:

¹ ~~Must-[Shall](#)~~ comply with clear vision requirements of Chapter 17.74.

(Ord. No. 2021-03 , § 3(Exh. C), 5-17-2021)

Sec. 17.34.40. Minimum requirements.

- A. ~~Must-[Shall](#)~~ connect to municipal water.
- B. ~~Must-[Shall](#)~~ connect to municipal sewer if service is currently within 200 feet of the site. Sites more than 200 feet from municipal sewer, may be approved to connect to an alternative disposal system provided all of the following are satisfied:
 - 1. A county septic permit is secured and a copy is provided to the [eCity](#);
 - 2. The property owner executes a waiver of remonstrance to a local improvement district and/or signs a deed restriction agreeing to complete improvements, including but not limited, to curbs, sidewalks, sanitary sewer, water, storm sewer or other improvements which directly benefit the property;
 - 3. The minimum size of the property is one acre or is a pre-existing buildable lot, as determined by the [eCity](#);
 - 4. Site consists of a buildable parcel(s) created through dividing property in the city, which is less than five acres in size.
- C. The location of any real improvements to the property ~~must-[shall](#)~~ provide for a future street network to be developed.
- D. ~~Must-[Shall](#)~~ have frontage or approved access to public streets.

Sec. 17.34.50. Additional requirements.

- A. Design review as specified in Chapter 17.90 is required for all uses.
- B. Lots with 40 feet or less of street frontage shall be accessed by a rear alley or a shared private driveway.
- C. Lots with alley access may be up to ten percent smaller than the minimum lot size of the zone.
- D. *Zero Lot Line Dwellings:* Prior to building permit approval, the applicant shall submit a recorded easement between the subject property and the abutting lot next to the yard having the zero setback. This easement shall be sufficient to guarantee rights for maintenance purposes of structures and yard, but in no case shall it be less than five feet in width.

CHAPTER 17.36 LOW DENSITY RESIDENTIAL (R-1)¹

Sec. 17.36.00. Intent.

This district is intended to implement the Low Density Residential Comprehensive Plan designation by providing ~~for an urban level of~~ low-density residential development. It is to be used as a transition between the Single Family Residential zone and the higher ~~densities-~~density zones of a village area. The uses are to be fully serviced by public facilities. This zone is intended to provide walkable neighborhoods with excellent linkage between residential areas, schools, parks, and village commercial. This zone is one of four zones allowed in a "Village" as designated on the Comprehensive Plan Map. ~~This zone is one of four zones included in a village area and is designed as a mixed-use neighborhood with a range of housing types and accessible commercial areas.~~ Density shall not be less than five or more than eight units per net acre.

Sec. 17.36.10. Permitted uses.

A. Primary Uses Permitted Outright:

1. Single detached dwelling (subject to design standards in Chapter 17.90);
2. Single detached manufactured dwelling (subject to design standards in Chapter 17.90);
3. Single detached or attached zero lot line dwelling;
4. Duplex;
5. Row houses;
6. Manufactured home parks (see Chapter 17.96).

B. Accessory Uses Permitted Outright:

1. Accessory dwelling unit;
2. Accessory structure, detached or attached in accordance with specified size limitations (see Chapter 17.74);
3. Family day care homes, subject to any conditions imposed on the residential dwellings in the zone;
4. Home business (see Chapter 17.74);
5. Livestock and small animals, excluding carnivorous exotic animals: The keeping, but not the propagating, for solely domestic purposes on a lot having a minimum area of one acre. The structures for the housing of such livestock shall be located within the rear yard and at a minimum distance of 100 feet from an adjoining lot in any residential zoning district;
6. Minor utility facility;
7. Other development customarily incidental to the primary use.

¹Editor's note(s)—Pre-republication, this chapter was last revised by Ord. No. 2013-11, effective December 18, 2013. Any amendments occurring post-republication have a history note in parenthesis at the bottom of the amended section.

Sec. 17.36.20. Minor conditional uses and conditional uses.

A. *Minor Conditional Uses:*

1. Accessory structures for agricultural, horticultural or animal husbandry use in excess of the size limits in Chapter 17.74;
2. Projections or free-standing structures such as chimneys, spires, belfries, domes, monuments, fire and hose towers, observation towers, transmission towers, flagpoles, radio and television towers, masts, aerials, cooling towers and similar structures or facilities not used for human occupancy exceeding 35 feet in height;
3. Other uses similar in nature.

B. *Conditional Uses:*

1. Community services;
2. Funeral and interment services, cemetery, mausoleum or crematorium;
3. Golf course and club house, pitch-and-putt, but not garden or miniature golf or golf driving range;
4. Hospital or home for the aged, retirement, rest or convalescent home;
5. Lodges, fraternal and civic assembly;
6. Major utility facility;
7. Preschool, orphanage, kindergarten or commercial day care;
8. Residential care facility (ORS 443.000 to 443.825);
9. Schools (public, private, parochial or other educational institution and supporting dormitory facilities, excluding colleges and universities);
10. Other uses similar in nature.

Sec. 17.36.30. Development standards.

Type		Standard
A. Minimum Lot Area	Single detached dwelling	5,500 square ft.
	Single detached zero lot line	5,000 square ft.
	Other permitted uses	No minimum
B. Minimum Average Lot Width	Single detached dwelling	50 ft.
	Single detached zero lot line dwelling	40 ft.
	Single attached zero lot line dwelling	30 ft.
	Other permitted uses	No minimum
C. Minimum Lot Frontage		20 ft. except as allowed by Section 17.100.160
D. Minimum Average Lot Depth		No minimum
E. Setbacks	Front yard	10 ft. minimum
	Rear yard	15 ft. minimum
	Side yard (interior)	5 ft. minimum ¹

Created: 2021-09-08 09:53:42 [EST]

(Supp. No. 1, Update 3)

	Corner Lot	10 ft. minimum on side abutting the street ²
	Garage	22 ft. minimum for front vehicle access 15 ft. minimum if entrance is perpendicular to the street (subject to Section 17.90.220) 5 ft. minimum for alley or rear access
Projections into Required Setbacks		See Chapter 17.74
Accessory Structures in Required Setbacks		See Chapter 17.74
Structure Height		35 ft. maximum
Building Site Coverage		No minimum
Off-Street Parking		See Chapter 17.98

Footnotes:

¹ Excluding zero-lot line development.

² ~~Must-Shall~~ comply with clear vision requirements of Chapter 17.74.

Sec. 17.36.40. Minimum requirements.

- A. ~~Must-Shall~~ connect to municipal water.
- B. ~~Must-Shall~~ connect to municipal sewer if service is currently within 200 feet of the site. Sites more than 200 feet from municipal sewer, may be approved to connect to an alternative disposal system provided all of the following are satisfied:
 - 1. A county septic permit is secured and a copy is provided to the eCity;
 - 2. The property owner executes a waiver of remonstrance to a local improvement district and/or signs a deed restriction agreeing to complete improvements, including but not limited, to curbs, sidewalks, sanitary sewer, water, storm sewer or other improvements which directly benefit the property;
 - 3. The minimum size of the property is one acre or is a pre-existing buildable lot, as determined by the eCity;
 - 4. Site consists of a buildable parcel(s) created through dividing property in the city, which is less than five acres in size.
- C. The location of any real improvements to the property ~~must-shall~~ provide for a future street network to be developed.
- D. ~~Must-Shall~~ have frontage or approved access to public streets.

Sec. 17.36.50. Additional requirements.

- A. Design review as specified in Chapter 17.90 is required for all uses.
- B. Lots with 40 feet or less of street frontage shall be accessed by a rear alley or a shared private driveway.
- C. Lots with alley access may be up to ten percent smaller than the minimum lot size of the zone.

-
- D. *Zero Lot Line Dwellings:* Prior to building permit approval, the applicant shall submit a recorded easement between the subject property and the abutting lot next to the yard having the zero setback. This easement shall be sufficient to guarantee rights for maintenance purposes of structures and yard, but in no case shall it be less than five feet in width.

CHAPTER 17.38 MEDIUM DENSITY RESIDENTIAL (R-2)¹

Sec. 17.38.00. Intent.

This district is intended to implement the Medium Density Residential Comprehensive Plan designation by providing for medium density single-family and multi-family ~~multiple-family~~ uses in suitable locations, where public sewer, water, and other services are readily accessible. All development shall also provide access to the surrounding neighborhood with excellent linkage between residential areas, schools, and parks. Density shall not be less than eight or more than 14 units per net acre.

Sec. 17.38.10. Permitted uses.

A. Primary Uses Permitted Outright:

1. Single detached dwelling (subject to design standards in Chapter 17.90);
2. Single detached manufactured dwelling (subject to design standards in Chapter 17.90);
3. Single detached or attached zero lot line dwelling (subject to design standards in Chapter 17.90);
4. Row house;
5. Duplex;
6. Multi-family dwelling;
7. Manufactured home parks (see Chapter 17.96).

B. Accessory Uses Permitted Outright:

1. Accessory dwelling unit subject to the provisions in Chapter 17.74;
2. Accessory structure, detached or attached subject to the provisions in Chapter 17.74;
3. Family day care homes, subject to any conditions imposed on the residential dwellings in the zone (see Chapter 17.74);
4. Home business (see Chapter 17.74);
5. Livestock and small animals, excluding carnivorous exotic animals: The keeping, but not the propagating, for solely domestic purposes on a lot having a minimum area of one acre. The structures for the housing of such livestock shall be located within the rear yard and at a minimum distance of 100 feet from an adjoining lot in any residential zoning district;
6. Minor utility facility;
7. Other development customarily incidental to the primary use.

¹Editor's note(s)—Pre-republication, this chapter was last revised by Ord. No. 2013-11, effective December 18, 2013. Any amendments occurring post-republication have a history note in parenthesis at the bottom of the amended section.

Sec. 17.38.20. Minor conditional uses and conditional uses.

A. *Minor Conditional Uses:*

1. Accessory structures for agricultural, horticultural or animal husbandry use in excess of the size limits in Chapter 17.74;
2. Projections or free-standing structures such as chimneys, spires, belfries, domes, monuments, fire and hose towers, observation towers, transmission towers, flagpoles, radio and television towers, masts, aerials, cooling towers and similar structures or facilities not used for human occupancy exceeding 35 feet in height;
3. Other uses similar in nature.

B. *Conditional Uses:*

1. Community services;
2. Congregate housing;
3. Funeral and interment services, cemetery, mausoleum or crematorium;
4. Golf course and club house, pitch-and-putt, but not garden or miniature golf or golf driving range;
5. Hospital or home for the aged, retirement, rest or convalescent home;
6. Lodges, fraternal and civic assembly;
7. Major utility facility;
8. Preschool, orphanage, kindergarten or commercial day care;
9. Residential care facility (ORS 443.000 to 443.825);
10. Schools (public, private, parochial or other educational institution and supporting dormitory facilities, excluding colleges and universities);
11. Other uses similar in nature.

Sec. 17.38.30. Development standards.

Type	Standard	
Minimum Lot Area	No minimum	
Minimum Average Lot Width	Single detached dwelling	50 ft.
	Single detached zero lot line dwelling	40 ft.
	Single attached zero lot line dwelling	30 ft.
	Other permitted uses	No minimum
Minimum Lot Frontage	20 ft. except as allowed by Section 17.100.160	
Minimum Average Lot Depth	No minimum	
Setbacks	Front yard	10 ft. minimum
	Rear yard	15 ft. minimum
	Side yard (interior)	5 ft. minimum ¹

	Corner Lot	10 ft. minimum on side abutting the street ²
	Garage	20 ft. minimum for front vehicle access 15 ft. minimum if entrance is perpendicular to the street (subject to Section 17.90.220) 5 ft. minimum for alley or rear access
Projections into Required Setbacks		See Chapter 17.74
Accessory Structures in Required Setbacks		See Chapter 17.74
Multi-family	Landscaping	25% minimum
	Setbacks	See Section 17.90.230
Structure Height		35 feet maximum
Building Site Coverage		No minimum
Off-Street Parking		See Chapter 17.98

Footnotes:

¹ Excluding zero lot line development.

² ~~Must-[Shall](#)~~ comply with clear vision requirements of Chapter 17.74.

Sec. 17.38.40. Minimum requirements.

- A. ~~Must-[Shall](#)~~ connect to municipal water.
- B. ~~Must-[Shall](#)~~ connect to municipal sewer if service is currently within 200 feet of the site. Sites more than 200 feet from municipal sewer, may be approved to connect to an alternative disposal system provided all of the following are satisfied:
 - 1. A county septic permit is to be secured and a copy is provided to the [eCity](#).
 - 2. The property owner executes a waiver of remonstrance to a local improvement district and/or signs a deed restriction agreeing to complete improvements.
 - 3. The minimum size of the property is one acre or is a pre-existing buildable lot, as determined by the [eCity](#).
 - 4. Site consists of a buildable parcel(s) created through dividing property in the city, which is less than five acres in size.
- C. The location of any real improvements to the property ~~must-[shall](#)~~ provide for a future street network to be developed.
- D. ~~Must-[Shall](#)~~ have frontage or approved access to public streets.

Sec. 17.38.50. Additional requirements.

- A. Design review as specified in Chapter 17.90 is required for all uses.
- B. Lots with 40 feet or less of street frontage shall be accessed by a rear alley or a shared private driveway.

-
- C. Zero Lot Line Dwellings: Prior to building permit approval, the applicant shall submit a recorded easement between the subject property and the abutting lot next to the yard having the zero setback. This easement shall be sufficient to guarantee rights for maintenance purposes of structures and yard, but in no case shall it be less than five feet in width.

CHAPTER 17.40 HIGH DENSITY RESIDENTIAL (R-3)¹

Sec. 17.40.00. Intent.

This district is intended to implement the High Density Residential Comprehensive Plan designation by providing for housing in close proximity to retail, public amenities; major transportation routes and transit services where public sewer, water and other services are readily accessible. R-3 uses are designed to be a transition area between commercial and industrial uses and low density single family uses. Pedestrian connections are required to ensure a direct walking route to retail shops. All development shall also provide access to the surrounding neighborhood with excellent linkage between residential areas, schools, parks, and commercial. Density shall not be less than ten or more than 20 units per net acre.

Sec. 17.40.10. Permitted uses.

A. *Primary Uses Permitted Outright:*

1. Single Detached, if located on an existing lot of record;
2. Single Attached Zero Lot Line;
3. Duplex;
4. Row houses;
5. Multi-family dwellings;
6. Manufactured home parks;
7. Boarding houses and rooming houses;
8. Residential facility.

B. *Accessory Uses Permitted Outright:*

1. Accessory dwelling unit (see Chapter 17.74);
2. Accessory structure, detached or attached (see Chapter 17.74);
3. Family day care homes, subject to any conditions imposed on the residential dwellings in the zone;
4. Home business (see Chapter 17.74);
5. Livestock: The keeping, but not the propagating, of one horse, or one cow, or two sheep for solely domestic purposes on a lot having a minimum area of one acre. The structures for the housing of such livestock shall be located within rear yard and at a minimum distance of 100 feet from an adjoining lot in any residential zoning district;
6. Minor utility facility;

¹Editor's note(s)—Pre-republication, this chapter was last revised by Ord. No. 2013-11, effective December 18, 2013. Any amendments occurring post-republication have a history note in parenthesis at the bottom of the amended section.

7. Other development customarily incidental to the primary use.
 (Ord. No. 2021-16 , § 5(Exh. E), 8-16-2021)

Sec. 17.40.20. Minor conditional uses and conditional uses.

A. *Minor Conditional Uses:*

1. Accessory structures for agricultural, horticultural or animal husbandry use in excess of the size limits in Chapter 17.74;
2. Projections or free-standing structures such as chimneys, spires, belfries, domes, monuments, fire and hose towers, observation towers, transmission towers, flagpoles, radio and television towers, masts, aerials, cooling towers and similar structures or facilities not used for human occupancy exceeding 35 feet in height;
3. Other uses similar in nature.

B. *Conditional Uses:*

1. Community services;
2. Congregate housing;
3. Funeral and interment services, cemetery, mausoleum or crematorium;
4. Golf course and club house, pitch-and-putt, but not garden or miniature golf or golf driving range;
5. Hospital or home for the aged, retirement, rest or convalescent home;
6. Lodges, fraternal and civic assembly;
7. Major utility facility;
8. Preschool, orphanage, kindergarten or commercial day care;
9. Residential care facility (ORS 443.000 to 443.825);
10. Schools (public, private, parochial or other educational institution and supporting dormitory facilities, excluding colleges and universities);
11. Other uses similar in nature.

Sec. 17.40.30. Development standards.

Type		Standard
Minimum Average Lot Width	Single detached dwelling	40 ft.
	Single detached zero lot line dwelling	30 ft.
	Single attached zero lot line dwelling	20 ft.
	Other permitted uses	No minimum
Minimum Lot Frontage		20 ft. except as allowed by Section 17.100.160
Minimum Average Lot Depth		No minimum
Setbacks	Front yard	10 ft. minimum
	Rear yard	15 ft. minimum

(Supp. No. 1, Update 3)

Created: 2021-09-08 09:53:42 [EST]

	Side yard (interior)	5 ft. minimum ¹
	Corner Lot	10 ft. minimum on side abutting the street ²
	Garage	20 ft. minimum for front vehicle access 15 ft. minimum if entrance is perpendicular to the street (subject to Section 1.79.220) 5 ft. minimum for alley or rear access
Projections into Required Setbacks		See Chapter 17.74
Accessory Structures in Required Setbacks		See Chapter 17.74
Multi-family	Landscaping	25% minimum
	Setbacks	See Section 17.90.230
Structure Height		35 ft. maximum
Building Site Coverage		No maximum
Landscaping		See Chapter 17.92
Off-Street Parking		See Chapter 17.98

Footnotes:

¹ Excluding zero lot line development.

² ~~Must-[Shall](#)~~ comply with clear vision requirements of Chapter 17.74.

Sec. 17.40.40. Minimum requirements.

- A. ~~Must-[Shall](#)~~ connect to municipal water.
- B. ~~Must-[Shall](#)~~ connect to municipal sewer.
- C. The location of any real improvements to the property ~~must-[shall](#)~~ provide for a future street network to be developed.
- D. ~~Must-[Shall](#)~~ have frontage or approved access to public streets.

Sec. 17.40.50. Additional requirements.

- A. Design review as specified in Chapter 17.90 is required for all uses.
- B. Lots with 40 feet or less of street frontage shall be accessed by a rear alley or a shared private driveway.
- C. *Zero Lot Line Dwellings:* Prior to building permit approval, the applicant shall submit a recorded easement between the subject property and the abutting lot next to the yard having the zero setback. This easement shall be sufficient to guarantee rights for maintenance purposes of structures and yard, but in no case shall it be less than five feet in width.

CHAPTER 17.100 LAND DIVISION¹

Sec. 17.100.00. Intent.

The intent of this chapter is ~~to implement the Comprehensive Plan,~~ to provide procedures, regulations, and design standards for ~~land divisions~~ subdivisions, partitions, replats, middle housing land divisions, and property line adjustments, ~~and associated improvements and to provide for~~ The City of Sandy requires orderly and efficient land division patterns supported by a connected system of streets, sidewalks, park facilities, trails, fiber (broadband), water supply, sanitary sewer, and stormwater drainage facilities.

The division of land is the initial step in establishing Sandy's ultimate development pattern. The framework of streets, blocks, and individual lots is implemented through the land division process. Density, dimensional standards of lots, setbacks, and building height are established in applicable zoning district regulations.

~~This chapter presents the review procedures, design standards and improvement requirements for land divisions. Procedures for replats and property line adjustments are also addressed in this chapter.~~

Sec. 17.100.10. General provisions.

- A. No land shall be divided prior to approval of a minor partition, major partition, replat, middle housing land division, or subdivision in accordance ~~with this Code~~ with Title 17 of the Sandy Municipal Code.
- B. No sale or conveyance of any portion of a lot, other than for a public purpose, shall leave a structure on the remainder of a lot with less than the minimum lot size, yard density, or setback requirements of the zoning district, with the exception of lots created through the middle housing land division process.
- C. Land division is processed by approval of a tentative plan prior to approval and recording of the final land division plat ~~or map.~~ Where a Type II or Type III procedure is required for land division approval, that procedure shall apply to the tentative plan approval. ~~As long as there is compliance with the approved tentative plat and conditions,~~ the Director shall have ~~has~~ the authority to review a approve the final plats ~~and maps~~ for a land divisions through a Type I procedure to determine whether the plat complies with the approved tentative plat and conditions.

Sec. 17.100.20. Land division classification—Type I, II or III procedures.

- A. *Type I Land Division (Property Line Adjustment).* Property line adjustments shall be a Type I procedure if the resulting parcels comply with standards of the ~~Development Code~~ zoning district and this chapter.
- B. *Type I Land Division (Minor Partition).* A ~~minor~~ partition shall be a Type I procedure if the land division does not create a street and the resulting parcels comply with the standards of the zoning district and this chapter.
- C. *Type II Land Division (Major Partition or Subdivision).* A ~~major~~ partition or subdivision shall be a Type II procedure when a street is extended, satisfactory street conditions exist, ~~and~~ the resulting parcels/lots comply with the standards of the zoning district, ~~and this chapter~~ the criteria for partitions and subdivisions

¹Editor's note(s)—Pre-republication, this chapter was last revised by Ord. No. 2020-24, effective September 21, 2020. Any amendments occurring post-republication have a history note in parenthesis at the bottom of the amended section.

[in this chapter](#). Satisfactory street conditions exist when the Director determines ~~one all~~ of the following [are met](#):

1. Existing streets [that](#) are stubbed to the property boundaries [are connected and extended to the property boundaries of the subject property](#), ~~and are linked by the land division~~.
 2. [The land division does not create traffic volumes that exceed average daily traffic \(ADT\) standards for local streets as detailed in Chapter 17.10, Definitions](#). ~~An existing street or a new proposed street need not continue beyond the land division in order to complete an appropriate street system or to provide access to adjacent property.~~
 3. The proposed street layout [provides collector and arterial streets as geographically located in the 2011 City of Sandy Transportation System Plan](#), ~~is consistent with a street pattern adopted as part of the Comprehensive Plan or an officially adopted City street plan~~.
 4. [The proposed partition or subdivision provides a street pattern that meets the dimensional standards for blocks as required in Chapter 17.100 and/or provides street cross-sections that meet the width requirements as detailed in Chapter 17.10, Definitions](#).
- D. *Type II Land Division (Minor Replat)*. A minor replat of an existing platted subdivision shall be a Type II procedure when the street(s) are existing and no extension or reconstruction/realignment is necessary, ~~when~~ the replat does not increase the allowable density, the resulting parcels comply with the standards of the zoning district and this chapter, and the replat involves no more than six lots. [Regardless of the number of lots, any replat involving the creation, extension, or modification of a street shall be processed as a major replat](#).
- E. *Middle Housing Land Division*. A middle housing land division is a land division for a duplex built in [accordance with ORS 197.758](#). A middle housing land division results in the creation of separate units of land for each dwelling unit of the duplex, or to create a separate unit of land for an Accessory Dwelling Unit. [Following the land division, the units of land resulting from a Middle Housing Land Division shall collectively be considered a single lot along with the parent lot for all planning and zoning purposes except platting and property transfer](#).
- EE. *Type III Land Division (Major Partition or Subdivision)*. A ~~major~~ partition or subdivision shall be a Type III procedure if unsatisfactory street conditions exist, ~~or~~ the resulting parcels/lots do not comply with the standards of the zoning district, ~~and this chapter or~~ [the partition or subdivision does not meet the criteria in this chapter, or the applicant is requesting one or more variances](#). The Director shall determine ~~that if~~ unsatisfactory street conditions exist ~~based on~~ if one [or more](#) of the following ~~criteria are proposed~~:
1. ~~The land division does not link connect and extend streets that are stubbed to the boundaries of the property~~ [Existing streets that are stubbed to the property boundaries are not connected and extended to the property boundaries of the subject property](#).
 2. [The land division creates traffic volumes that exceed average daily traffic \(ADT\) standards for local streets as detailed in Chapter 17.10, Definitions](#). ~~An existing street or a new proposed street will be extended beyond the boundaries of the land division to complete a street system or provide access to adjacent property.~~
 3. The proposed street layout [does not provide collector and arterial streets as geographically located in the 2011 City of Sandy Transportation System Plan](#), ~~is inconsistent with a street pattern adopted as part of the Comprehensive Plan or an officially adopted City street plan~~.
 4. [The proposed partition or subdivision does not provide a street pattern that meets the dimensional standards for blocks as required in Chapter 17.100 and/or does not provide street cross-sections that meet the width requirements as detailed in Chapter 17.10, Definitions](#).

{00790562; 1 }

Created: 2021-09-08 09:53:47 [EST]

(Supp. No. 1, Update 3)

F.G. *Type III Land Division (Major Replat).* A major replat involves the realignment of property lines involving more than six lots, even if the ~~subdivision-major replat~~ does not increase the allowable density. All parcels resulting from the replat must comply with the standards of the zoning district and this chapter. Any replat involving the creation, extension, or modification of a street shall be processed as a major replat.

Sec. 17.100.30. Property line adjustment.

Approval of a property line adjustment is required to move ~~or eliminate~~ a common boundary ~~line~~ between two parcels or lots. A Type I property line adjustment is not considered a development action for purposes of determining whether ~~floodplain, greenway, parkland dedication~~ or right-of-way dedication ~~is required or improvements are required.~~

A. *Preapplication Conference.* The applicant for a property line adjustment shall participate in a ~~preapplication conference with City staff to discuss procedures for approval, applicable state and local requirements, objectives and policies of the Sandy Comprehensive Plan, and the availability of services.~~ A preapplication conference is required.

B. *Application Requirements.* Property line adjustment applications shall be made on forms provided by the City and shall be accompanied by:

1. Two copies of the property line adjustment map at least 11 inches by 17 inches in size;
2. The required fees;
3. ~~Any data or narrative necessary to explain~~ Narrative explaining the application; ~~and,~~
4. Electronic copy of all materials.

B.C. *Map Information.* The property line adjustment map and narrative shall include the following:

1. The names, addresses, email addresses, and phone numbers of the owner(s) of the subject parcels and authorized representative;
2. Scale of drawing, north arrow, and date; ~~Scale of the drawing using an engineer's scale;~~
3. ~~North arrow and date;~~
3. Legal description of the property;
4. Dimensions and size of the parcels or lots involved in the property line adjustment, existing and proposed;
5. Approximate locations of structures, utilities, rights-of-way, and easements;
6. Points of driveway access, existing and proposed;
7. ~~Any natural features, including such as~~ Natural features, including waterways, drainage areas, significant vegetation, ~~and~~ and rock outcroppings; and,
8. ~~Approximate topography, particularly noting any area~~ including identification of land exceeding a 25 percent slope. ~~of steep slope.~~

C.D. *Approval Criteria.* The Director shall approve a request for a property line adjustment if the following criteria are satisfied:

1. No additional parcels are created.
2. All parcels meet the density requirements and dimensional standards of the base zoning district.

{00790562; 1 }

Created: 2021-09-08 09:53:47 [EST]

(Supp. No. 1, Update 3)

3. Access, utilities, easements, and ~~proposed~~ future collector and arterial streets as identified in the 2011 Transportation System Plan ~~will not be~~ are not adversely affected by the property line adjustment.

4. Existing streets that are stubbed to the property boundaries can be connected and extended in the future.

~~D~~E. *Final Approval.* Three paper copies of the final map shall be submitted within ~~one~~ two years of approval of the property line adjustment. The final map shall include a boundary survey, which complies with ORS Chapters 92 and 209. The approved final map, along with required deeds, must be recorded with Clackamas County.

Sec. 17.100.40. Minor and major partitions and replats.

Approval of a partition or replat is required for a land division of three or fewer parcels in a calendar year. Partitions, or replats ~~which that~~ do not require creation or extension of a street for access, ~~is~~ are classified as a Type I, minor partition or replat. Partitions or replats, ~~which that~~ require creation or extension of a street for access, are classified as Type II, major partitions or replats.

A. *Preapplication Conference.* The applicant for a minor or major partition or replat shall participate in a preapplication conference with City staff to discuss procedures for approval, applicable state and local requirements, objectives and policies of the Sandy Comprehensive Plan, and the availability of services. A preapplication conference is required.

B. *Application Requirements.* Partition or replat applications shall be made on forms provided by the ~~planning department~~ City and shall be accompanied by:

1. ~~Eight~~ Two copies of the tentative plan for the minor or major partition or replat;
2. The required fees;
3. Any data or narrative necessary to explain the application;
4. List of and two sets of mailing labels for affected property owners (if Type II, III, or IV); and,
5. Electronic copy of all materials.

C. *Tentative Partition Plan or Replat.* The tentative partition plan or replat shall be a minimum of ~~eight and one-half~~ by 17 inches in size and shall include the following information:

1. Scale of drawing, north arrow, and date; ~~The date, north point, engineering scale, and legal description;~~
2. Name and address of the owner of record and of the person who prepared the partition plan or replat;
3. Zoning, size, and dimensions of the ~~tract~~ property to be partitioned or replatted;
4. Size, dimensions, and identification of proposed parcels (i.e., Parcel 1, Parcel 2, Parcel 3);
5. Approximate location of any structures on the ~~tract~~ property to be partitioned or replatted, including setbacks to proposed parcel boundaries;
6. Location, names, and widths of streets, sidewalks, and bikeways within the ~~tract~~ property to be partitioned or replatted and extending ~~400~~ 1,000 feet beyond the ~~tract~~ property boundaries;
7. Location, width, and purpose of existing and proposed easements on the ~~tract~~ property to be partitioned or replatted;

{00790562; 1 }

Created: 2021-09-08 09:53:47 [EST]

(Supp. No. 1, Update 3)

-
8. Location and size of sanitary sewer, water, and stormwater drainage facilities proposed to serve the property to be partitioned or replatted;
 9. Natural features ~~such, including as~~ waterways, drainage areas, significant vegetation, ~~and~~ rock outcroppings;
 10. ~~Approximate~~ Topography, including identification of land exceeding a 25 percent slope; particularly noting any area of steep slope;
 11. A plan for future parcel redivision, if the proposed parcels are large enough to be redivided under the comprehensive plan or zoning designation.
- D. *Approval Criteria.* The Director or Planning Commission shall review the tentative plan for a minor partition, or replat ~~or~~ major partition, or replat based on the classification procedure (Type I, II or III) and the following approval criteria:
1. The proposed partition or replat meets the density requirements, setbacks, and dimensional standards for all lots in the base zoning district or zoning districts if multiple zoning districts exist in the proposed partition or replat.
 2. The proposed subdivision meets the requirements of the Bornstedt Village Overlay or other specific area plan as required in Chapter 17.54.
 3. The proposed partition or replat meets the requirements of hillside development as required in Chapter 17.56.
 4. The proposed partition or replat meets the requirements of the flood and slope hazard overlay district as required in Chapter 17.60.
 5. The proposed partition or replat meets the additional setback standards on collector and arterial streets as required in Chapter 17.80.
 6. The proposed partition or replat meets the building orientation standards on transit streets as required in Chapter 17.82.
 7. The proposed partition or replat meets all improvement standards for sidewalks, pedestrian connections including tracts and easements, bicycle facilities, water facilities, sanitary sewer facilities, stormwater facilities, and all other standards as required in Chapter 17.84.
 8. The proposed partition or replat includes the dedication of land, or a fee in-lieu of land as required in Chapter 17.86 and the 2022 Parks and Trails Master Plan.
 9. The proposed subdivision will meet the requirements of Chapter 17.90 at the time of house construction.
 10. The proposed subdivision meets the landscaping requirements of Chapter 17.92.
 11. The proposed partition or replat provides on-street parking, off-street parking, driveway spacing, and driveway widths as required in Chapter 17.98.
 12. The proposed partition or replat provides tree retention as required in Chapter 17.102.
 13. The proposed partition or replat provides a street pattern that meets the dimensional standards for blocks as required in Chapter 17.100 and street cross-sections that meet the width requirements as detailed in Chapter 17.10, Definitions.
 14. The proposed street layout includes the siting of all collector and arterial streets as geographically located in the 2011 Transportation System Master Plan.

{00790562; 1 }

Created: 2021-09-08 09:53:47 [EST]

(Supp. No. 1, Update 3)

15. The proposed street improvements include sidewalks, planter strips or swales, street trees, street lighting, curbs, asphalt, and vehicular and bicycle lanes and striping that meets the construction standards as required in the 2011 Transportation System Master Plan, Figures 6-13.

16. The proposed partition or replat is consistent with the design standards set forth in this chapter.

17. The proposed street pattern is connected and consistent with the Comprehensive Plan or official street plan for the City of Sandy.

18. The proposed partition or replat creates traffic volumes that do not exceed average daily traffic (ADT) standards for local streets as detailed in Chapter 17.10, Definitions.

19. The proposed subdivision includes utilities that meet the requirements of the City of Sandy Water Facilities Master Plan and the City of Sandy Sanitary Sewer Master Plan.

20. The proposed partition or replat includes the installation of all utilities underground, including electric, natural gas, fiber, telecommunication lines, water, and sanitary sewer, and the required easements for such utilities.

- ~~1. The proposed partition is consistent with the density, setback, and dimensional standards of the base zoning district.~~
 - ~~2. The proposed partition is consistent with the design standards set forth in this chapter.~~
 - ~~3. Adequate public facilities are available or can be provided to serve the proposed partition.~~
 - ~~4. All proposed improvements meet City standards.~~
 - ~~5. Traffic volumes shall not exceed average daily traffic (ADT) standards for local streets as detailed in Chapter 17.10, Definitions.~~
 - ~~6. The plan preserves the potential for future redivision of the parcels, if applicable.~~
- E. *Conditions.* The Director or Planning Commission may require dedication of land and easements and may specify such conditions or modifications of the tentative partition plan or replat as deemed necessary. ~~In no event, however, shall the Director or Planning Commission require greater dedications or conditions than could be required if the entire tract were subdivided.~~
- F. *Approval of Tentative Partition Plan or Replat.* When a tentative partition plan or replat has been approved, all copies shall be marked with the date and conditions of approval. One copy shall be returned to the applicant, one copy shall be sent to the county, and one copy shall be retained by the City.
- G. *Approval Signatures for Final Partition ~~Map~~ Plan or Replat.* Following review and approval of a final partition ~~map~~ plan or replat, the Director shall:
1. Review Plat for Accuracy. The Director may require field investigations to verify that the plat survey is accurate. The applicant shall be notified and afforded an opportunity to make corrections if needed.
 2. Sign the plat to certify that the map is approved.
 3. Notify the applicant that the partition map or replat and accompanying documents have been approved and are ready for recording with the Clackamas County Recorder.
 4. Deliver the signed original to the applicant who shall deliver the original ~~and two exact copies to for recording at~~ the County Recorder's office. ~~One recorded copy shall be returned to the City of Sandy immediately after recording is completed.~~

{00790562; 1 }

Created: 2021-09-08 09:53:47 [EST]

(Supp. No. 1, Update 3)

Page 6 of 28

-
- H. *Effective Date for Final Partition Map Approval.* The partition [or replat](#) shall become final upon recording of the approved partition map [or replat](#) together with any required documents [from the land use decision](#) with the County Recorder. Work specifically authorized following tentative approval may take place prior to processing of the final partition map [or replat](#). The documents effectuating a partition [or replat](#) shall become null and void if not recorded with the County Recorder within one year following approval.
- I. *Improvements.* The same improvements shall be installed to serve each parcel of a partition [or replat](#) as required of a subdivision. Improvement standards are set forth in [Chapter 17.84, Section 17.90](#). ~~If the Director and City Engineer find a need to vary the improvement standards for a partition, the application shall be processed through a Type III hearing and may exempt specific improvements.~~
- ~~J. *Exceptions to Improvements.* Exceptions to improvements may be approved in transition areas or other areas as deemed appropriate by the City. In lieu of excepting an improvement, the Planning Commission may recommend to the City Council that the improvement be installed in the area under special assessment financing or other facility extension policies of the City.~~

Sec. 17.100.50. Middle housing land divisions.

- A. *Applicability.* [When land which has been, or is proposed to be, developed for middle housing is proposed to be partitioned or subdivided so that each dwelling unit will be located on its own separate lot, the partition or subdivision shall be processed as a middle housing land division pursuant to this section, in lieu of the standards and procedures otherwise applicable to partitions and subdivisions included under this chapter.](#)
- B. *Procedure Type.* [Unless an applicant requests that the application be reviewed as a Type II administrative review, a middle housing land division shall be processed as an expedited land division as provided under ORS 197.360 through ORS 197.380.](#)
- C. *Submittal Requirements.* [An application for a middle housing land division shall include the following:](#)
1. [The information required under Section 17.18.30;](#)
 2. [List and two sets of mailing labels for property owners within 100 feet of the subject property;](#)
 3. [Two copies of a site plan for the middle housing development as it relates to the existing lot. The site plan shall be a minimum of 11 inches by 17 inches in size and shall contain the following information:](#)
 - a. [Scale and north arrow;](#)
 - b. [The boundaries, dimensions, and area of the parent lot and resulting middle housing lots;](#)
 - c. [The location, width, and names of all existing streets, flag lot accessways, and public accessways abutting the perimeter of the lot;](#)
 - d. [The location, width, curve radius, grade, and names of all proposed streets, flag lot accessways, and public accessways;](#)
 - e. [The location and use of all existing and proposed buildings and accessory structures on the lot, indicating the setbacks to all property lines and adjacent on-site structures and identification of any structures that will be removed;](#)
 - f. [The location of all existing and proposed off-street parking and vehicle use areas;](#)
 - g. [Identification of vehicle, pedestrian, and bicycle parking and circulation areas, including handicapped parking spaces, and accessible routes of travel;](#)

{00790562; 1 }

Created: 2021-09-08 09:53:47 [EST]

(Supp. No. 1, Update 3)

-
- h. Driveway locations, bike paths, transit stops, sidewalks, and other bike and pedestrian pathways, curbs, and easements;
 - i. The location, height, and material of fences, berms, walls, and other existing and proposed screening;
 - j. The location of all existing trees and vegetation required to be protected under Section 17.60.40, Section 17.92.10(C), and Section 17.102.50; and
 - k. The location of all existing and proposed street trees required under Section 17.92.30;
4. Two copies of a tentative plan map for the middle housing development as it relates to the proposed lots. The tentative plan map shall be a minimum of 11 inches by 17 inches in size and shall contain the following information:
- a. A title block on each sheet indicating the names and addresses of the landowner; the names and addresses of the professional engineers or surveyors responsible for preparing the plan; the date; and the township, range, and section of the subject property;
 - b. Scale and north arrow;
 - c. The location of all property lines within 50 feet of the perimeter of the subject property;
 - d. The boundaries, dimensions, and area of each proposed lot;
 - e. The location, width, and names of all existing streets, flag lot accessways, and public accessways abutting the perimeter of the subject property;
 - f. The location, width, curve radius, grade, and names of all proposed streets, flag lot accessways, and public accessways;
 - g. The location and use of all buildings and accessory structures that will be located on each proposed lot, indicating the distance of such buildings and accessory structures to proposed lot lines and to adjacent structures on abutting lots.
 - h. The location of all existing and proposed easements necessary to serve the development;
 - i. The location, dimensions, and use of all existing and proposed public areas, including, but not limited to, stormwater management facilities and detention facilities;
 - j. The location of any ditches, waterways, detention facilities, sewage disposal systems, and wells on the subject property, indicating which facilities will remain and which will be removed or decommissioned; and
 - k. The location of any natural topographic features on the subject property, including, but not limited to, creeks, drainage ways as shown on the most recent USGS maps, wetlands as shown on the Local Wetland Inventory, and floodplains.
4. A current title report for the property;
5. A completed tree inventory detailing tree location, species, size (DBH), and condition as well as which, if any, trees are proposed for removal
6. A tree protection plan for trees required to be retained;
7. A geological assessment or geo-technical report, if required by Chapter 17.56, or a certification from an engineering geologist or a geotechnical engineer that landslide risk on the site is low, and that there is no need for further landslide risk assessment;

{00790562; 1 }

Created: 2021-09-08 09:53:47 [EST]

(Supp. No. 1, Update 3)

8. A preliminary grading plan depicting proposed site conditions following completion of the proposed development, when grading of the subject property is necessary to accommodate the proposed development.

9. A utility plan showing the location of existing and proposed waterlines, sanitary sewer lines, and stormwater lines; and

10. A description of the proposed stormwater management system, including pre and post construction conditions, prepared in accordance with the 2020 City of Portland Stormwater Management Manual.

D. Approval Criteria. The Director shall review middle housing land division applications based on the procedure set forth in Chapter 17.18 and the following approval criteria:

1. A proposal for development of middle housing shall be in compliance with the Oregon Residential Specialty Code and land use regulations applicable to the original lot or parcel allowed under ORS 197.758 (5);

2. Separate utilities are provided for each dwelling unit;

3. The following easements are shown for each dwelling unit on the tentative plan:

a. Easements necessary for locating, accessing, replacing and servicing all utilities;

b. Easements for pedestrian access from each dwelling unit to a public road;

c. Easements necessary for any common use areas or shared building elements; and

d. Easements necessary for any dedicated driveways or parking.

4. The middle housing land division results in exactly one dwelling unit on each resulting lot or parcel, except for lots, parcels, or tracts used as common areas;

5. The application demonstrates that buildings or structures on the middle housing lots created by the middle housing land division will comply with applicable building code provisions relating to new property lines, and, notwithstanding the creation of new lots or parcels, that structures or buildings located on the middle housing lots will comply with the Oregon Residential Specialty Code;

6. The final plat shall include a notation indicating that the land division was approved through a middle housing land division and that the lots shall not be further divided;

7. The final plat shall include a note indicating that neither a Homeowners Association nor Covenants, Conditions, and Restrictions can prohibit middle housing land division;

8. The deed shall contain a reference to the final plat, which includes a notation that the land division was approved through a middle housing land division and that the lots shall not be further divided; and

9. The proposal shall include street frontage improvements where a resulting lot or parcel abuts the street consistent with the 2011 Transportation System Plan.

E. Conditions of Approval. Conditions may not be placed on the approval of a middle housing land division except to:

1. Prohibit further division of the resulting lots;

2. Prohibit the construction of an accessory dwelling unit on any of the resulting lots;

3. Require dedication of right-of-way when an existing street abutting the property does not conform to the requirements of Section 17.10.30;

{00790562; 1 }

Created: 2021-09-08 09:53:47 [EST]

(Supp. No. 1, Update 3)

4. Require boundary street improvements when an existing street abutting the property does not conform to the requirements of the adopted street section consistent with the 2011 Transportation System Plan; and

—5. Require a notation on the final plat indicating that the approval of the land division was given under ORS 92.031.

F. Expiration. Tentative plan approval for a middle housing land division shall expire in three (3) years, unless a final plat is approved within that timeframe.

~~Sec. 17.100.50. Nonresidential partitions or subdivisions.~~

~~This section includes special provisions for partitions or subdivisions of land that is zoned for commercial or industrial use.~~

~~A. *Principles and Standards.* In addition to the standards established for partitions or subdivisions, the applicant for a nonresidential partition or subdivision shall demonstrate that the street, parcel, and block pattern proposed is adapted to uses in the vicinity. The following principles and standards shall be observed:~~

- ~~1. Proposed commercial and industrial parcels shall be suitable in area and dimensions to the types of development anticipated.~~
- ~~2. Street right-of-way and pavement shall be adequate to accommodate the type and volume of traffic anticipated.~~
- ~~3. Special requirements may be imposed by the City with respect to street, curb, gutter, and sidewalk design and construction.~~
- ~~4. Special requirements may be imposed by the City with respect to the installation of public utilities, including but not limited to water, sanitary sewer, and stormwater drainage facilities.~~
- ~~5. Efforts shall be made to protect adjacent residential areas from potential nuisance from a proposed commercial or industrial subdivision. Such efforts may include the provision of extra depth in parcels backing up on existing or potential residential development and landscaped buffers.~~
- ~~6. Streets carrying nonresidential traffic, particularly truck traffic, should not normally be extended through adjacent residential areas.~~
- ~~7. Traffic volumes shall not exceed average daily traffic (ADT) standards for local streets as detailed in Chapter 17.10, Definitions.~~

Sec. 17.100.60. Subdivisions.

~~Approval of a s~~Subdivision approval is required for a land division that creates~~ef~~ four or more lots or parcels in a calendar year. A two-step procedure is required for subdivision approval: (1) tentative plat review and approval; and (2) final plat review and approval.

A. *Preapplication Conference.* The applicant for a subdivision shall participate in a preapplication conference with City staff to discuss ~~procedures for approval~~subdivision criteria, applicable state and local requirements, objectives and policies of the Sandy Comprehensive Plan, and the availability of utility services. The preapplication conference provides the opportunity to discuss the conceptual development of the property in advance of a formal submission of the tentative plan in order to save the applicant unnecessary delay and cost. A preapplication conference is required.

{00790562; 1 }

Created: 2021-09-08 09:53:47 [EST]

(Supp. No. 1, Update 3)

B. *Application Requirements for a ~~Tentative Plat~~Subdivision.* Subdivision applications shall be made on forms provided by the ~~Planning department~~Division and shall be accompanied by:

1. ~~Twenty-Two~~ copies of the tentative plat;
2. Required fees, including third-party review fees; and technical service deposit;
- ~~3. Twenty copies of all other supplementary material as may be required to indicate the general program and objectives of the subdivision;~~
- ~~3~~4. Preliminary title search;
4. Any data or narrative necessary to explain the application;
5. Existing zoning and proposed land use;
- ~~6~~5. One mailing list and two sets of mailing labels ~~List~~ of affected property owners;
7. Electronic copy of all materials;
8. Two copies of the following supplementary materials, unless waived by the Director:
 - a. A vicinity map, showing adjacent property boundaries and how proposed streets may be extended to connect to existing streets;
 - b. Plan Set including the following sheets:
 - i. Existing conditions plan detailing the following:
 1. Ground elevations shown by contour lines at two-foot vertical intervals for ground slopes of less than ten percent and at ten-foot vertical intervals for ground slopes exceeding ten percent.
 2. Natural features such as marshes, rock outcroppings, watercourses on and abutting the property, and location of wooded areas.
 3. Existing uses of the property, including location and present use of all existing structures to remain on the property after platting.
 - ii. Grading and erosion control plan;
 - iii. Utility plan detailing location of stormwater drainage, sanitary sewers, and water lines (existing and proposed) on and abutting the property. If utilities are not on or abutting the property, indicate the direction and distance to the nearest locations;
 - iv. Tree preservation plan detailing building footprints and critical root zones of trees proposed for retention;
 - v. Street tree plan;
 - vi. Driveway plan;
 - vii. On-street parking plan;
 - viii. Stream, wetlands, and flood and slope hazard (FSH) overlay map detailing the following:
 1. Location, width, and direction of flow of all water courses.
 2. Approximate location of areas subject to periodic inundation or storm sewer overflow, and location of any floodplain or flood hazard district.
 3. Top of bank.
 4. FSH analysis area, FSH restricted development area, and required setbacks.

{00790562; 1 }

Created: 2021-09-08 09:53:47 [EST]

(Supp. No. 1, Update 3)

ix. Slope analysis map identifying land exceeding a 25 percent slope.

x. Future street plan in accordance with Section 17.100.100(C).

c. Arborist report and tree inventory;

d. Traffic analysis in accordance with Section 17.84.50;

e. Wetland delineation, if applicable;

f. Geotechnical Report; and,

~~a.g.~~ Proposed development phases, if applicable.

C. *Format.* The Tentative Plat and Plan Set shall be drawn on a sheet ~~24~~¹⁸ inches by ~~36~~²⁴ inches in size and at a scale of one inch equals ~~5~~¹⁰⁰ feet, one inch equals 40 feet, one inch equals 30 feet, or one inch equals 20 feet, unless an alternative format is approved by the Director at the preapplication conference. The application shall include one copy of a scaled drawing of the proposed subdivision, on a sheet eight and one-half inches by 11 inches, suitable for reproduction.

D. *Data Requirements for Tentative Plat.*

1. Scale of drawing, north arrow, and date.
2. Location of the subdivision by section, township and range, and a legal description sufficient to define the location and boundaries of the proposed tract.
- ~~3. A vicinity map, showing adjacent property boundaries and how proposed streets may be extended to connect to existing streets.~~
- ~~4~~³. Names, addresses, and telephone numbers of the owner(s) of the property, the engineer or surveyor, and the date of the survey.
- ~~5~~⁴. *Streets:* location, names, paved widths, alleys, and right-of-way (existing and proposed) on and within 400 feet of the boundaries of the ~~subdivision tract~~^{property}.
- ~~6~~⁵. *Easements:* location, widths, purpose of all easements (existing and proposed) on or serving the ~~tract~~^{property}.
- ~~7. Utilities: location of stormwater drainage, sanitary sewers and water lines (existing and proposed) on and abutting the tract property. If utilities are not on or abutting the tract property, indicate the direction and distance to the nearest locations.~~
- ~~8. Ground elevations shown by contour lines at two-foot vertical intervals for ground slopes of less than ten percent and at ten-foot vertical intervals for ground slopes exceeding ten percent. Ground elevation shall be related to an established benchmark or other datum approved by the Director.~~
- ~~9. Natural features such as marshes, rock outcroppings, watercourses on and abutting the property, and location of wooded areas.~~
- ~~10. Approximate location of areas subject to periodic inundation or storm sewer overflow, location of any floodplain or flood hazard district.~~
- ~~11. Location, width, and direction of flow of all water courses.~~
- ~~12. Identification of the top of bank and boundary of mandatory setback for any stream or water course.~~
- ~~13. Identification of any associated wetland and a boundary of identifying the mandatory setback.~~
- ~~14. Identification of any wetland and boundary of mandatory setback.~~

{00790562; 1 }

Created: 2021-09-08 09:53:47 [EST]

(Supp. No. 1, Update 3)

~~156.~~ Location of at least one temporary bench mark within the tract boundaries.

~~16.~~ Existing uses of the property, including location and present use of all existing structures to remain on the property after platting.

~~177.~~ Lots and Blocks: approximate dimensions of all lots, minimum lot sizes, [block length](#), and proposed lot [numbers](#), and block numbers [if applicable](#).

~~18.~~ Existing zoning and proposed land use.

~~198.~~ Designation of land intended to be dedicated or reserved for public use, with the purpose, conditions, or limitations of such reservations clearly indicated.

~~20.~~ Proposed development phases, if applicable.

~~21.~~ Any other information determined necessary by the Director such as a soil report or other engineering study, traffic analysis, floodplain or wetland delineation, etc.

E. *Approval Criteria.* The Director or Planning Commission shall review ~~the tentative plat for~~ the subdivision based on the classification procedure (Type II or III) set forth in Chapter 17.12 and the following approval criteria:

1. The proposed subdivision ~~is consistent with~~ meets the density [requirements](#), setbacks, and dimensional standards [for all lots](#) ~~of in~~ the base zoning district ~~or zoning districts if multiple zoning districts exist in the proposed subdivision~~.
2. The proposed subdivision meets the requirements of the Bornstedt Village Overlay or other specific area plan as required in Chapter 17.54.
3. The proposed subdivision meets the requirements of the hillside development as required in Chapter 17.56.
4. The proposed subdivision meets the requirements of the flood and slope hazard overlay district as required in Chapter 17.60.
5. The proposed subdivision meets the additional setback standards on collector and arterial streets as required in Chapter 17.80.
6. The proposed subdivision meets the building orientation standards on transit streets as required in Chapter 17.82.
7. The proposed subdivision meets all improvement standards for sidewalks, pedestrian connections including tracts and easements, bicycle facilities, water facilities, sanitary sewer facilities, stormwater facilities, and all other standards as required in Chapter 17.84.
8. The proposed subdivision includes the dedication of land, or a fee in-lieu of land as required in Chapter 17.86 and the 2022 Parks and Trails Master Plan.
9. The proposed subdivision will meet the requirements of Chapter 17.90 at the time of house construction.
10. The proposed subdivision meets the landscaping requirements of Chapter 17.92.
11. The proposed subdivision provides on-street parking, off-street parking, driveway spacing, and driveway widths as required in Chapter 17.98.
12. The proposed subdivision provides tree retention as required in Chapter 17.102.
13. The proposed subdivision provides a street pattern that meets the dimensional standards for blocks as required in Chapter 17.100 and street cross-sections that meet the width requirements as detailed in Chapter 17.10, Definitions.

{00790562; 1 }

Created: 2021-09-08 09:53:47 [EST]

(Supp. No. 1, Update 3)

14. The proposed street layout includes the siting of all collector and arterial streets as geographically located in the 2011 Transportation System Master Plan.

~~15. The proposed street improvements include sidewalks, planter strips or swales, street trees, street lighting, curbs, asphalt, and vehicular and bicycle lanes and striping that meets the construction standards as required in the 2011 Transportation System Master Plan, Figures 6-13.~~

~~2. The proposed subdivision is consistent with the design standards set forth in this chapter.~~

~~3. The proposed street pattern is connected and consistent with the Comprehensive Plan or official street plan for the City of Sandy.~~

16. The proposed subdivision creates T. Traffic volumes shall that do not exceed average daily traffic (ADT) standards for local streets as detailed in Chapter 17.10, Definitions.

17. The proposed subdivision includes utilities that meet the requirements of the City of Sandy Water Facilities Master Plan and the City of Sandy Sanitary Sewer Master Plan.

18. The proposed subdivision includes the installation of all utilities underground, including electric, natural gas, fiber, telecommunication lines, water, and sanitary sewer, and the required easements for such utilities.

19. The proposed subdivision, if phasing is proposed, meets the following standards:

a. A proposed phasing plan shall be submitted with the subdivision land use application.

b. The proposed phasing plan shall include a time schedule for developing a site in phases, with all phases to be recorded by plat within five (5) years from the date of tentative plat approval.

c. Public facilities shall be deemed substantially complete prior to construction of additional phases or as otherwise determined through a development agreement with a performance guarantee per Section 17.100.340.

d. The phased development shall not result in requiring the City or other property owners to construct public facilities that are required to accomplish additional phases in the subdivision.

~~5. Adequate public facilities are available or can be provided to serve the proposed subdivision.~~

~~6. All proposed improvements meet City standards.~~

~~7. The phasing plan, if requested, can be carried out in a manner that meets the objectives of the above criteria and provides necessary public improvements for each phase as it develops.~~

F. *Conditions.* ~~The Director or Planning Commission~~ A decision to approve a tentative plat may require dedication of land and easements, and may ~~specify~~ include such ~~other~~ other conditions or modifications ~~as necessary to ensure compliance with the applicable standards and criteria of the tentative plat as deemed necessary.~~

G. *Improvements.* A detailed list of required improvements for the subdivision shall be set forth in the ~~approval and conditions~~ final order for the tentative plat.

H. *Tentative Plat Expiration Date.* The final plat shall be delivered to the Director for approval within two years following approval of the tentative plat, and shall incorporate any modification or condition required by approval of the tentative plat. The Director may, upon written request, grant an extension of the tentative plat approval for up to one additional year. The ~~one-~~year extension by the Director is the maximum extension that may be granted for a subdivision.

{00790562; 1 }

Created: 2021-09-08 09:53:47 [EST]

(Supp. No. 1, Update 3)

-
- I. *Submission of Final Plat.* The applicant shall survey the subdivision and prepare a final plat in conformance with the tentative plat approval and the requirements of ORS Chapter 92.
- J. *Information on Plat.* In addition to information required for the tentative plat or otherwise specified by state law, the following information shall be shown on the final plat for the subdivision:
1. Tract boundary lines, right-of-way lines of streets, and property lines with dimensions, bearings, or deflection angles and radii, arcs, points of curvature, and tangent bearings. All bearings and angles shall be shown to the nearest one-second and all dimensions to the nearest 0.01 foot. If circular curves are proposed in the plat, the following data must be shown in table form: curve radius, central angles, arc length, and bearing of long chord. ~~All information shown on the face of the plat shall be mathematically perfect.~~
 2. Easements denoted by fine dotted lines, clearly identified and, if already of record, their recorded references. If an easement is not definitely located of record, a statement of the easement shall be given. The width of the easement, its length and bearing, and sufficient ties to locate the easement with respect to the subdivision shall be shown. If the easement is being dedicated by the plat, it shall be properly referenced in the owner's certificates of dedication.
 3. Any building setback lines if more restrictive than the City zoning ordinance.
 4. Location and purpose for which sites, other than residential lots, are dedicated or reserved.
 5. Easements and any other areas for public use dedicated without any reservation or restriction.
 6. A copy of any deed restrictions and restrictive covenants written on the face of the plat or prepared to record with the plat with reference on the face of the plat.
 7. The following certificates that may be combined where appropriate:
 - a. A certificate signed and acknowledged by all parties having any recorded title interest in the land, consenting to the preparation and recording of the plat.
 - b. A certificate signed and acknowledged as above, dedicating all land intended for public use except land that is intended for the exclusive use of the lot owners in the subdivision, their licensees, visitors, and tenants, ~~and servants.~~
 - c. A certificate with the seal of and signed by the engineer or the surveyor responsible for the survey and final plat.
 - d. Other certificates now or hereafter required by law.
 8. *Supplemental Information with Plat.* The following data shall accompany the final plat:
 - a. A preliminary title report issued by a title insurance company in the name of the owner of the land, showing all parties whose consent is necessary and their interest in the ~~tract~~land.
 - b. Sheets and drawings showing the following:
 - i. Traverse data including the coordinates of the boundary of the subdivision and ties to section corners and donation land claim corners, and showing the error of closure, if any.
 - ii. The computation of distances, angles, and courses shown on the plat.
 - iii. Ties to existing monuments, proposed monuments, adjacent subdivisions, street corners, and state highway stationing.
 - c. A copy of any deed restrictions or recorded covenants applicable to the subdivision.
 - d. A copy of any dedication requiring separate documents.

{00790562; 1 }

Created: 2021-09-08 09:53:47 [EST]

(Supp. No. 1, Update 3)

-
- e. A list of all taxes and assessments on the ~~tract~~-land which have become a lien on the ~~tract~~land.
 - f. A certificate by the applicant's engineer that the ~~subdivider~~-applicant has complied with the improvement requirements.
9. Certification by the ~~City Engineer~~Public Works Director or by the owner of a privately owned domestic water supply system, that water will be available to the property line of each and every lot depicted in the final plat.
- K. *Technical Plat Review.* Upon receipt by the City, the plat and supplemental information shall be reviewed by the City Engineer and Director through a Type I procedure. The review shall focus on conformance of the final plat with the approved tentative plat, conditions of approval, and provisions of city, county, or state law applicable to subdivisions.
- 1. The City Engineer may make field checks as needed to verify that the final plat is sufficiently correct on the ground, and City representatives may enter the subdivision property for this purpose.
 - 2. If the City Engineer or Director determines that full conformance has not been made, they shall advise the ~~subdivider~~-applicant of the changes or additions that must be made and shall afford the ~~subdivider~~-applicant an opportunity to make the changes or additions.
 - 3. All costs associated with the technical plat review and recording shall be the responsibility of the applicant.
- L. *Approval of Final Plat.* The signatures of the Director and the City Engineer shall indicate approval of the final plat. After the plat has been approved by all ~~e~~City and ~~Clackamas e~~County officials, a digital copy of the plat and a digital copy of any recorded documents shall be delivered to the Director within 20 working days of recording.
- M. *Recording of Final Plat.* Approval of the plat by the City shall be conditioned on its prompt recording. The ~~subdivider~~-applicant shall, without delay, submit the plat to the county assessor and the county governing body for signatures as required by ORS 92.100. The plat shall be prepared as provided by ORS 92.080. Approval of the final plat shall be null and void if the plat is not submitted for recording within 30 days after the date the last required approving signature has been obtained.

(Ord. No. 2021-16 , § 15(Exh. N), 8-16-2021)

Sec. 17.100.70. Land division design standards.

All land divisions shall be in conformance with the requirements of the applicable base zoning district ~~and Chapter 17.100, this chapter, as well as with~~and other applicable provisions of ~~this Code~~Title 17 of the Sandy Municipal Code. The design standards in this section shall be used in conjunction with street design standards included in the 2011 City of Sandy Transportation System Plan and standards and construction specifications for public improvements as set forth in adopted Public Facilities Plans and the Sandy Municipal Code.

(Ord. No. 2021-16 , § 15(Exh. N), 8-16-2021)

~~Sec. 17.100.80. Character of the land.~~

~~Land which the Director or the Planning Commission finds to be unsuitable for development due to flooding, improper drainage, steep slopes, rock formations, adverse earth formations or topography, utility easements, or other features which will reasonably be harmful to the safety, health, and general welfare of the present or future~~

{00790562; 1 }

Created: 2021-09-08 09:53:47 [EST]

(Supp. No. 1, Update 3)

~~inhabitants of the partition or subdivision and the surrounding areas, shall not be developed unless adequate methods are formulated by the subdivider and approved by the Director or the Planning Commission to solve the problems created by the unsuitable land conditions.~~

Sec. 17.100.90. Access control guidelines and coordination.

- A. Notice and coordination with ODOT is required. The ~~€~~City will coordinate and notify ODOT regarding all proposals for new or modified public and private accesses ~~on~~ to Highway ~~s~~ 26. A notice to ODOT is also required if the proposal is within 1,000 feet of Highway 26, Proctor Blvd., or Pioneer Blvd. and 211.
- B. It is the city policy to, over time, reduce noncompliance with the Oregon Highway Plan Access Management Policy guidelines.
- ~~C. —~~ Reduction of compliance with the cited State standards means that all reasonable alternatives to reduce the number of accesses and avoid new non-complying accesses will be explored during the development review. The methods to be explored include, but are not limited to: closure, relocation, and consolidation of access; right-in/right-out driveways; crossover easements; and use of local streets, alleys, and frontage roads.

Sec. 17.100.100. Streets generally.

No subdivision or partition shall be approved unless the ~~development subdivision lots or partition lots~~ have ~~has~~ frontage or approved access to an existing public street. In addition, all streets shall be graded and improved in conformance with the City's adopted construction standards, ~~approved by the City Engineer adopted by the City Council, in accordance with the~~ and approved construction plans.

- A. ~~Street Connectivity Principle. The pattern of streets established through a land division must be a rectangular grid pattern connected to the existing city or county road system. The streets shall provide for multimodal transportation facilities including vehicles, bicycles, and pedestrians. The traffic impact study required under Subsection 17.100.100.B shall demonstrate that the proposed roadways create a logical, recognizable circulation pattern, and spread traffic over many streets so that key transportation facilities (particularly U.S. 26) are not overburdened. The pattern of streets established through land divisions should be connected to: (a) provide safe and convenient options for cars, bikes, and pedestrians; (b) create a logical, recognizable pattern of circulation; and (c) spread traffic over many streets so that key streets (particularly U.S. 26) are not overburdened.~~
- B. *Transportation Impact Studies.* An applicant is required to prepare and submit a transportation impact study in accordance with the standards of Chapter 17.84 unless those standards exempt the application from the requirement.
- ~~C. —~~ *Topography and Arrangement.* All streets shall be properly related to special traffic generators such as industries, business districts, schools, and shopping centers and to the pattern of existing and proposed land uses.
- ~~D. —~~ *Street Spacing.* Street layout shall generally use a rectangular grid pattern with modifications as appropriate to adapt to topography or natural conditions.
- ~~E.C.~~ *Future Street Plan.* Future street plans are conceptual plans, street extensions, and street connections on land abutting proposed subdivisions and partitions. ~~acreage adjacent to land divisions. They assure access for future development and promote a logical, connected pattern of streets. It is in the interest of the city to promote a logical, connected pattern of streets.~~ All applications for land divisions subdivision and partition shall provide a future street plan that shows the pattern of ~~existing and~~ proposed future streets within the boundaries of the proposed ~~land divisions~~ subdivision or partition, proposed connections to abutting ~~properties~~ land, and extension of streets to ~~adjacent parcels~~ abutting

{00790562; 1 }

Created: 2021-09-08 09:53:47 [EST]

(Supp. No. 1, Update 3)

land within a ~~400-~~1,000 foot radius of the ~~subdivision, or partition, or replat~~ study area where development may practically occur.

- ~~F~~D. *Connections.* Except as permitted under Exemptions, all streets, alleys, and ~~pedestrian walkways~~sidewalks shall connect to other streets, ~~alleys, and sidewalks~~ within the ~~development subdivision or partition~~ and to existing and planned streets, ~~alleys, and sidewalks~~ outside the ~~development subdivision or partition~~, and to undeveloped properties that have no future street plan. Streets shall terminate at other streets ~~or at~~, parks, ~~and~~ schools, ~~or other public land within a neighborhood~~. Local streets shall align and connect with other ~~roads~~streets when crossing collectors and arterials, ~~per the criteria in Section 17.84.50.K.5.e.~~

Proposed streets or street extensions shall be located to provide direct access to existing or planned transit stops, and existing or planned ~~neighborhood activity centers, such as schools, shopping areas~~ and parks.

~~G~~E. *Exemptions.*

1. A future street plan is not required for partitions of residentially zoned land when none of the parcels may be redivided under existing minimum density standards.
- ~~2. Standards for street connections do not apply to freeways and other highways with full access control.~~
- ~~2~~3. When street connection standards are inconsistent with an adopted street spacing standard for arterials or collectors, a right turn ~~in~~/right turn ~~out~~ only design including median control may be approved. Where compliance with the standards would result in unacceptable sight distances, an accessway may be approved in place of a street connection.

Sec. 17.100.110. Street standards and classification.

~~Street standards are illustrated in the figures included at the end of this chapter.~~ Functional definitions of each street type are described in the ~~2011~~ Transportation System Plan as summarized below. ~~The descriptions below are intended to incorporate and implement the functional classifications in the 2011 Transportation System Plan, Chapter 3 and Figures 6-13.~~

- A. Major arterials are designed to carry high volumes of through traffic, mixed with some unavoidable local traffic, through or around the city. ~~Major arterials should generally be spaced at one-mile intervals.~~
- B. Minor arterials are designed to collect and distribute traffic from major and minor arterials to neighborhood collectors and local streets, or directly to traffic destinations. ~~Minor arterials should generally be spaced at one-mile intervals.~~
- C. Residential minor arterials are a hybrid between minor arterial and collector type streets that allow for moderate to high traffic volumes on streets where over 90 percent of the fronting lots are residential.
- D. Collector streets are designed to collect and distribute traffic from higher type arterial streets to local streets or directly to traffic destinations. ~~Collector streets should generally be spaced at one-half mile intervals.~~
- E. Local streets provide direct access to abutting property and connect to collector streets. Local streets shall be spaced no less than eight and no more than ~~ten~~twelve streets per mile, except as the ~~e~~City may otherwise approve through an adjustment or variance pursuant to Chapter 17.66. Local streets shall not exceed the ADT standards set forth in Chapter 17.10, except that the ADT standard for local streets shall not apply to outright permitted development within the C-1 zone.

{00790562; 1 }

Created: 2021-09-08 09:53:47 [EST]

(Supp. No. 1, Update 3)

- F. Cul-de-sacs and dead-end streets are prohibited, except as the City may otherwise approve through a variance pursuant to Chapter 17.66 ~~are discouraged. If deemed necessary, cul-de-sacs shall be as short as possible and shall not exceed 400 feet in length.~~
- ~~G. Public access lanes are designed to provide primary access to a limited number of dwellings when the construction of a local street is unnecessary.~~
- H.G. Alleys are designed to provide access to multiple dwellings in areas where lot frontages are narrow ~~and~~, driveway spacing requirements cannot be met, and lots abut transit streets.

Sec. 17.100.120. Blocks and accessways.

- A. *Blocks.* Blocks shall ~~have sufficient width to~~ provide for two tiers of lots at appropriate depths. However, exceptions to the block width shall be allowed for blocks that are adjacent to ~~arterial streets or~~ natural features.
- B. ~~Residential Blocks.~~ Blocks in the Single Family Residential zone, Low Density Residential zone, Medium Density Residential zone, High Density Residential zone, Central Business District zone, General Commercial zone, Village Commercial zone, and Industrial Park zone fronting local streets shall not exceed 400 feet in length, except as the City may otherwise approve through an adjustment or variance pursuant to Chapter 17.66, unless topographic slopes in excess of 12 percent, perennial streams, or wetlands, natural resource, or other similar physical conditions justify longer blocks
- ~~C. Commercial Blocks. Blocks located in commercial districts shall not exceed 400 feet in length.~~
- ~~D.C.~~ *Pedestrian and Bicycle Access Way Requirements.* In any block in a residential or commercial district over 600 feet in length, a pedestrian and bicycle accessway with a minimum improved surface of ten feet within a 15-foot right-of-way, ~~or tract,~~ or easement shall be provided through the middle of the block. To enhance public convenience and mobility, such accessways may be required to connect to cul-de-sacs, or between streets and other public or semipublic lands, ~~or through greenway systems.~~

(Ord. No. 2021-16 , § 15(Exh. N), 8-16-2021)

Sec. 17.100.130. Easements.

A minimum eight-foot wide public utility easement shall be ~~required~~ along property lines abutting a right-of-way for all lots ~~within a partition or subdivision created by partition, replat, or subdivision.~~ Where a partition, replat, or subdivision is traversed by a watercourse, drainage way, or channel or stream, the land division shall provide a stormwater easement or drainage right-of-way in substantial alignment with the topography and channel of the ~~conforming substantially with the lines of such watercourse, and such further~~ at a width as determined needed necessary for water quality and quantity protection.

Sec. 17.100.140. Public alleys.

- A. Public alleys shall have a minimum width of 20 feet. Structural section and surfacing shall conform to standards ~~set by the City Engineer.~~ adopted by the City Council.
- B. ~~Existing alleys may remain unimproved until redevelopment occurs. For unimproved alleys, W~~ when division of land occurs or the thresholds in Chapter 15.20 are met ~~development occurs, each the~~ abutting lot owner shall be responsible for completion of improvements to that portion of the alley abutting the property.

{00790562; 1 }

Created: 2021-09-08 09:53:47 [EST]

(Supp. No. 1, Update 3)

-
- C. Parking within the alley right-of-way is prohibited, except [an alley with a minimum width of 28 feet is allowed to have parallel parking on one side of the alley if driveway access is limited to one side of the alley, as provided in Section 17.100.140.D., below.](#)

~~D. An alley with a minimum width of 28 feet may permit parallel parking on one side of the alley only.~~

~~Sec. 17.100.150. Residential shared private drives.~~

~~A shared private drive is intended to provide access to a maximum of four required off-street parking spaces on a maximum of two legal lots of record.~~

~~A. Criteria for Approval. Shared private drives may be approved by the Director when one or more of the following conditions exist:~~

- ~~1. Direct access to a local street is not possible due to physical aspects of the site including size, shape, or natural features.~~
- ~~2. The construction of a local street is determined to be unnecessary.~~

~~B. Design:~~

- ~~1. A shared private drive constructed to city standards shall not serve more than four required off-street parking spaces on a maximum of two legal lots of record.~~
- ~~2. A shared access easement and maintenance agreement shall be established between the lots served by a shared private drive. The language of the easement and maintenance agreement shall be subject to approval by the Director. Such easements shall be recorded in the Deed Records of Clackamas County.~~
- ~~3. Public utility easements shall be provided where necessary in accordance with Section 17.100.130.~~
- ~~4. Shared private drives shall be fully improved with an all-weather surface (e.g. concrete, asphalt, permeable pavers) in conformance with city standards. The pavement width shall be 20 feet.~~
- ~~5. Parking shall not be permitted along shared private drives at any time and shall be signed and identified accordingly.~~

~~(Ord. No. 2021-03, § 10(Exh. J), 5-17-2021)~~

~~Sec. 17.100.160. Public access lanes.~~

~~Public access lanes are designed to provide primary access to a limited number of dwellings where the construction of a local street is not necessary. Public access lanes are intended to serve a maximum of six dwelling units.~~

~~A. Criteria for Approval. Public access lanes may be approved by the Director when certain conditions exist which make the construction of a standard local street unnecessary. Approval of public access lanes shall be based on one or more of the following:~~

- ~~1. Physical conditions such as natural features, unusual lot size, shape, or other unique features prevent the construction of a local street.~~
- ~~2. It is determined that construction of a local street is not necessary to facilitate orderly development of a future street system.~~
- ~~3. It is determined that there are no logical extensions of an existing local street to serve the site.~~

{00790562; 1 }

Created: 2021-09-08 09:53:47 [EST]

(Supp. No. 1, Update 3)

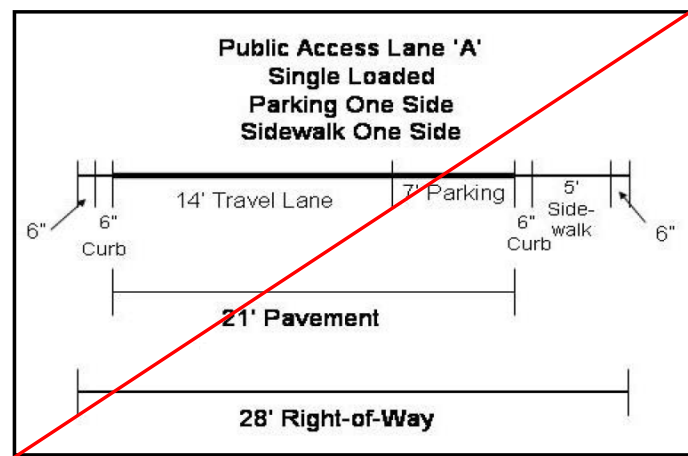
B. General Provisions.

1. A public access lane may serve a maximum of six dwelling units.
2. Public access lanes are subject to spacing requirements of Section 17.100.120.
3. Public utility easements shall be provided where necessary in accordance with Section 17.100.130.
4. If a public access lane is designed as a dead end, a turnaround shall be provided at the point where the lane terminates. The design of the turnaround shall be subject to approval by the Director and the Fire Department.
5. Parking shall be prohibited in public access lane turnarounds.
6. Street lighting may be required in public access lanes for traffic and pedestrian safety.

C. Public Access Lane Design.

1. Public Access Lane "A" (Figure 17.100-A).
 - a. Public access lane "A" is designed to be single loaded and provide access to lots located on one side of the lane only.
 - b. Public access lanes shall be constructed to city standards and must meet the required dimensions as specified in this section.
 - c. Curbside sidewalks on the side of the lane which abuts lot frontage are along public access lanes to achieve specified dimensions.
 - d. Planter strips are not required along public access lanes due to the minimal lots served. Lots abutting a public access lane are required to have street trees planted in accordance with Section 17.100.290.
 - e. Parking is permitted on one side of a public access lane "A" as shown in Figure 17.100-A. Parking shall be permitted on the side of the lane that abuts lot frontages only. Signage shall be displayed to indicate the parking regulations along the lane and in the turnaround.

Figure 17.100 – A: Public Access Lane ‘A’



2. Public Access Lane Option "B" (Figure 17.100-B).

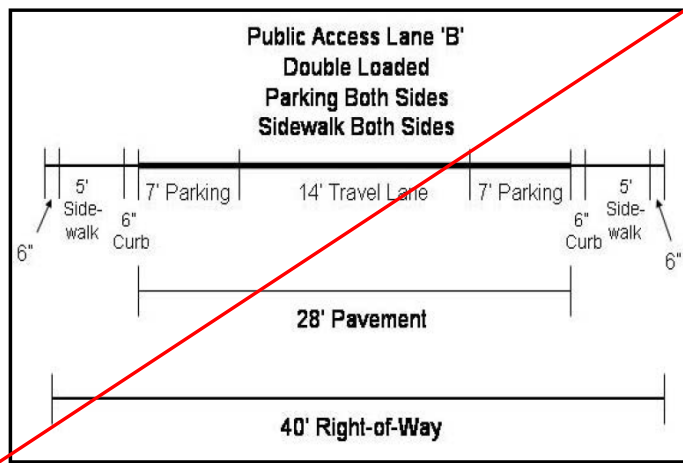
{00790562; 1 }

Created: 2021-09-08 09:53:47 [EST]

(Supp. No. 1, Update 3)

- a. ~~Public access lane "B" is designed to be double loaded and provide access to lots located on both sides of the lane.~~
- b. ~~Public access lanes shall be constructed to city standards and must meet the required dimensions as specified in this section.~~
- c. ~~Curbside sidewalks are required along both sides of the access lane to achieve specified dimensions.~~
- d. ~~Planter strips are not required along public access lanes due to the minimal lots served. Lots abutting a public access lane are required to have street trees planted in accordance with Section 17.100.290.~~
- e. ~~Parking is permitted on both sides of a public access lane "B" as shown in Figure 17.100-B. Signage shall be displayed to indicate the parking regulations along the lane and in the turnaround.~~

Figure 17.100 – B: Public Access Lane ‘B’



Sec. 17.100.170. Flag lots.

Flag lots ~~can~~ may be created where it can be shown that no other street access is possible to achieve the requested land division. The flag lot shall have a minimum street frontage of ~~15-20~~ feet for its accessway. The following ~~dimensional~~ requirements shall apply to flag lots:

- A. Setbacks applicable to the underlying zoning district shall apply to the flag lot.
- B. The access strip (pole) ~~may~~ shall not be ~~counted~~ included when calculating the minimum lot size. ~~toward the lot size requirements.~~
- C. The accessway shall have a minimum paved width of ten (10) feet.

Sec. 17.100.180. Intersections.

- A. *Intersections.* Streets shall ~~be laid out so as to~~ intersect ~~as nearly as possible~~ at right angles. ~~A proposed intersection of two new streets at an angle of less than 75 degrees shall not be acceptable.~~ No more than two streets shall intersect at any one point. ~~unless specifically approved by the City Engineer. The city~~

{00790562; 1 }

Created: 2021-09-08 09:53:47 [EST]

(Supp. No. 1, Update 3)

~~engineer may require left turn lanes, signals, special crosswalks, curb extensions and other intersection design elements justified by a traffic study or necessary to comply with the Development Code.~~ Intersections shall maintain a minimum of 150 feet between the nearest edges of the two rights-of-way.

- B. *Curve Radius.* All local and neighborhood collector streets shall have a minimum curve radius (at intersections of rights-of-way) of 20 feet, ~~unless otherwise approved by the City Engineer.~~ When a local or neighborhood collector enters on to a collector or arterial street, the curve radius shall be a minimum of 30 feet, ~~unless otherwise approved by the City Engineer.~~

Sec. 17.100.190. Street and traffic control signs.

The ~~City Engineer shall specify the~~ type and location of traffic control signs, street signs, and/or traffic safety devices shall follow the Oregon Standard Details.

Sec. 17.100.200. Street surfacing.

Public streets, including alleys, within ~~the development a~~ partition, replat, or subdivision shall be designed by a professional engineer and must be approved by the City Engineer. ~~improved in accordance with the requirements of the City or the Oregon Standard Specifications.~~ All streets shall be paved with asphaltic concrete or Portland cement concrete surfacing. ~~Where required, speed humps shall be constructed in conformance with the City's standards and specifications.~~

Sec. 17.100.210. Street lighting.

A ~~Installation of a~~ complete lighting system (including ~~but not limited to~~ conduits, wiring, bases, poles, arms, and fixtures) shall be the financial responsibility of the ~~subdivider~~ property owner completing the partition, replat, or subdivision on all cul-de-sacs, local streets, ~~and neighborhood~~ collector streets, ~~and arterial streets.~~ ~~The subdivider will be responsible for providing the arterial street lighting system in those cases where the subdivider is required to improve or fronts on an arterial street.~~ Standards and specifications for street lighting shall conform to IESNA roadway illumination standards and the 2020 City of Sandy's s ~~Streetlighting g~~ Guidelines.

Sec. 17.100.220. Lot design.

- A. ~~The lot arrangement shall be such that there will be no foreseeable difficulties, for reason of topography or other conditions, in securing building permits to build on all lots in compliance with the Development Code.~~
- BA. The lot dimensions shall comply with the minimum standards of the Development Code as specified in the underlying zoning district, with the exception of a lot created through the middle housing land division process. ~~When lots are more than double the minimum lot size required for the zoning district, the subdivider may be required to arrange such lots to allow further subdivision and the opening of future streets to serve such potential lots.~~
- CB. The lot or parcel width at the front building line shall meet the requirements of the Development Code and shall abut a public street other than an alley for a width of at least 20 feet, with the exception of a lot created through the middle housing land division process. ~~A street frontage of not less than 15 feet is acceptable in the case of a flag lot division resulting from the division of an unusually deep land parcel that is of a size to warrant division into not more than two parcels.~~
- DC. ~~Double~~ The creation of a lot with street frontage on two parallel sides of the lot is not allowed. ~~lots shall be avoided except where necessary to provide separation of residential developments from arterial streets or to overcome specific disadvantages of topography or orientation.~~

{00790562; 1 }

Created: 2021-09-08 09:53:47 [EST]

(Supp. No. 1, Update 3)

~~E.D.~~ Lots shall not take access from major arterials, minor arterials, or collector streets if access to a local street exists. When driveway access from major or minor arterials may be necessary for several adjoining lots, the Director or the Planning Commission may require that such lots be served by a common access drive in order to limit traffic conflicts on such streets. ~~Where possible, driveways shall be designed and arranged to avoid requiring vehicles to back into traffic on minor or major arterials.~~

Sec. 17.100.230. Water facilities.

Water lines and fire hydrants serving the ~~partition, replat, or~~ subdivision ~~or partition, and connecting the development to City mains,~~ shall ~~connect to City mainlines and~~ be installed to provide adequate water pressure ~~for domestic water, sanitation, and fire safety purposes. to serve present and future consumer demand. The facilities shall be designed by a professional engineer and must be approved by the City Engineer.~~ The materials, sizes, and locations of water mains, valves, service laterals, meter boxes, and other required appurtenances shall be in accordance with American Water Works Association and the Oregon Standard Specifications standards of the Fire District, the City, and the Oregon Health Authority Drinking Water Services section.

If the City requires the ~~subdivider~~ applicant to install water lines in excess of eight inches, the City may participate in the oversizing costs. Any oversizing agreements shall be approved by the City ~~Manager~~ based upon ~~council~~ City Council policy and dependent on budget constraints. If required water mains will directly serve property outside the subdivision, the City may enter into an agreement with the ~~subdivider~~ applicant setting forth methods for reimbursement ~~by nonparticipating landowners for the proportionate share of the cost of construction. for the proportionate share of the cost.~~

Sec. 17.100.240. Sanitary sewers.

Sanitary sewers shall be installed to serve the subdivision and to connect the subdivision to existing mains. Design of sanitary sewers shall take into account the capacity and grade to allow for desirable extension beyond the subdivision. ~~The facilities shall be designed by a professional engineer and must be approved by the City Engineer.~~

If required sewer facilities will directly serve property outside the subdivision, the City may enter into an agreement with the subdivider setting forth methods for reimbursement by nonparticipating landowners for the proportionate share of the cost of construction.

Sec. 17.100.250. Surface drainage and storm sewer system.

- A. Drainage facilities shall be provided within the ~~partition or~~ subdivision ~~and to that~~ connect ~~with to~~ off-site drainage ways or storm sewers. ~~Capacity, grade, and materials shall be by a design approved by the City Engineer.~~ Design of ~~the facilities drainage within the subdivision~~ shall take into account the location, capacity and grade necessary to maintain unrestricted flow from areas draining through the subdivision, and to allow extension of the system to serve such areas. ~~The facilities shall be designed by a professional engineer and must be approved by the City Engineer.~~
- B. In addition to normal drainage design and construction, provisions shall be taken to handle any drainage from preexisting subsurface drain tile. ~~It shall be the design engineer's duty to~~ ~~The applicant's engineer shall~~ investigate the location of drain tile and its relation to public improvements and building construction.
- C. The roof and site drainage from each lot shall be discharged to either curb face outlets (if minor quantity), to a public storm drain, or to a natural acceptable drainage way if adjacent to the lot.

{00790562; 1 }

Created: 2021-09-08 09:53:47 [EST]

(Supp. No. 1, Update 3)

Sec. 17.100.260. Underground utilities.

All subdivisions or major partitions shall ~~be required to include the~~ installation of underground utilities (including ~~, but not limited to,~~ electrical, gas, fiber, telecommunication cable, cable, and telephone wiring, water, and sanitary sewer). The utilities shall be installed pursuant to the requirements of the utility company.

Sec. 17.100.270. Sidewalks.

Sidewalks shall be installed on both sides of a public street. Sidewalks shall be a minimum width of 5 feet on local streets and a minimum width of 6 feet on collector and arterial streets. Sidewalks on Pioneer and Proctor Boulevards shall be installed in accordance with the dimensions and design detailed in Appendix F. Sidewalks on Pleasant Street shall be installed in compliance with the Pleasant Street Master Plan. ~~and in any special pedestrian way within the subdivision.~~

Sec. 17.100.280. Bicycle routes.

If appropriate to the extension of a system of bicycle routes, existing or planned in the 2011 City of Sandy Transportation System Plan, Figure 4, the Director or the Planning Commission ~~may~~ shall require the installation of bicycle lanes within streets. ~~Separate bicycle access ways may be required to reduce walking or cycling distance when no feasible street connection is available.~~

Sec. 17.100.290. Street trees.

~~Where planting strips are provided in the public right of way, a master street tree plan shall be submitted and approved by the Director.~~ The street tree plan shall provide street trees ~~approximately~~ every 30 feet on center for all lots. In cases where driveways, streetlights, mailboxes, or other obstructions conflict with spacing street trees 30 feet on center, street trees shall be installed at a reduced spacing interval but in no case less than 15 feet on center.

Sec. 17.100.300. Erosion control.

Grass seed planting shall ~~take place~~ be completed prior to September 30 of the calendar year on all lots upon which a dwelling has not been started but the ground cover has been disturbed. The seeds shall be of an annual rye grass variety and shall be sown at not less than four pounds to each 1,000 square feet of land area.

Sec. 17.100.310. Required improvements.

The following improvements shall be installed at no expense to the City, consistent with the standards of Chapter 17.84, Chapter 17.100, 2011 Transportation System Master Plan, City of Sandy Street Tree Standard Planting Detail, 2020 Sandy Transit Master Plan, Water Facilities Master Plan, Sanitary Sewer Master Plan, and Oregon Standard Details, ~~except as otherwise provided in relation to oversizing.~~

- A. Lot, street, and perimeter monumentation.
- B. Mailboxes and concrete slabs for mounting the mailboxes. ~~delivery units.~~
- C. Sanitary sewer lines, required pump stations, water distribution lines, and fire hydrants. ~~s.~~
- D. Stormwater drainage facilities, including required plantings.
- E. Sidewalks, planter strips or swales or tree wells with decorative grates, ADA ramps, and truncated domes.

{00790562; 1 }

Created: 2021-09-08 09:53:48 [EST]

(Supp. No. 1, Update 3)

-
- F. Street-light ~~fixtures~~ and electrical lines for the streetlights.
 - G. Street name signs, ~~traffic control devices, and traffic control signs.~~
 - H. Street trees, ~~including required stakes, ties, and mulch.~~
 - I. Streets, ~~including curbs and asphalt.~~
 - J. ~~Transit benches and concrete slabs for mounting benches.~~
 - ~~J. Traffic control devices and signs.~~
 - ~~K.~~ Underground communication lines, including broadband (fiber) ~~for SandyNet, telephone, and cable and telecommunication lines.~~ Franchise agreements will dictate whether telephone and cable lines are required.
 - L. Underground ~~power lines~~ electric and natural gas.
 - M. ~~Erosion control measures for all areas without improvements or landscaping.~~
 - ~~M. Water distribution lines and fire hydrants.~~
 - ~~N. Fiber (broadband).~~

Sec. 17.100.320. Improvement procedures.

Improvements installed by an ~~applicant dividing land~~ ~~land divider~~ either as a requirement of these regulations or at their own option shall conform to the standards of Chapter 17.84 and improvement standards and specifications adopted by the City. Improvements shall be installed in accordance with the following general procedure:

- A. Improvement work shall not start until plans have been checked for adequacy and approved by the City Engineer. To the extent necessary for evaluation of the proposal, improvement plans may be required before approval of the tentative plan of a partition or subdivision.
- B. Improvement work shall not start until after the City is notified. If work is discontinued for any reason it shall not resume until the City is notified.
- C. Improvements shall be constructed under the inspection and to the satisfaction of the City Engineer.
- D. All improvements installed by the ~~subdivider~~ ~~applicant~~ shall be guaranteed for a period of one year following acceptance by the City Engineer. Such guarantee shall be secured by cash deposit in the amount of the value of the improvements as set by the City Engineer. Subdividers may elect to provide a subdivision maintenance bond equal to ten percent of the value of the public improvements for a period of two years following acceptance by the City.
- E. As-constructed plans in both digital and hard copy formats shall be filed with the City Engineer upon completion of the improvements.

Sec. 17.100.330. Options for improvements.

Before the signature of the City Engineer is obtained on the final partition or subdivision plat, the applicant shall install the required improvements, agree to install required improvements, or have gained approval to form an improvement district for installation of the improvements required with the tentative plat approval. These procedures are more fully described as follows:

- A. *Install Improvements.* The applicant may install the required improvements for the ~~partition or subdivision~~ prior to recording the final ~~partition or~~ subdivision plat. If this procedure is to be used, the ~~partition or~~ subdivision plat shall contain all the required certifications except the County Surveyor. The

{00790562; 1 }

Created: 2021-09-08 09:53:48 [EST]

City shall keep the [partition or](#) subdivision plat until the improvements have been completed and approved by the City Engineer. Upon City Engineer's approval, the City shall forward the final [partition or](#) subdivision plat for certification by the County Surveyor and then to the County Clerk for recording; or

- B. *Agree to Install Improvement.* The applicant may execute and file with the City an agreement specifying the period within which required improvements shall be completed. The agreement shall state that if the work is not completed within the period specified, the City may complete the work and recover the full cost and expense from the applicant. A performance bond equal to 110 percent of the value of the guaranteed improvements shall be required. Performance bonds shall be issued by a surety registered to do business in Oregon. The value of the guaranteed improvements may include engineering, construction management, legal, and other related expenses necessary to complete the work. The agreement may provide for the construction of the improvements in increments and for an extension of time under specified conditions; or
- C. *Form Improvement District.* The applicant may have all or part of the public improvements constructed under an improvement district procedure. Under this procedure the applicant shall enter into an agreement with the City proposing establishment of the district for improvements to be constructed, setting forth a schedule for installing improvements, and specifying the extent of the plat to be improved. The City reserves the right under the improvement district procedure to limit the extent of improvements in a [partition or](#) subdivision during a construction year and may limit the area of the final [partition or](#) subdivision plat to the area to be improved. The performance bond described in ~~§~~Section B. above shall be required under the improvement district procedure. The formation of a Local Improvement District (LID) is entirely ~~within~~[at](#) the discretion of the City [Council](#).

Sec. 17.100.340. Performance guarantee.

If the applicant chooses to utilize the ~~opportunities~~[options for improvements](#) provided under [A](#), or [B](#), or [C](#), above, the applicant shall provide a performance guarantee equal to 110 percent of the cost of the improvements to assure full and faithful performance thereof, in one of the following forms:

- A. A surety bond executed by a surety company authorized to transact business in the ~~S~~state of Oregon in a form approved by the City Attorney.
- B. In lieu of the surety bond, the applicant may:
 - 1. Deposit with the City cash money to be released only upon authorization of the City Engineer [and](#) [Director](#);
 - 2. Supply certification by a bank or other reputable lending institution that an irrevocable letter of credit in compliance with the International Chamber of Commerce Uniform Customs and Practice for Documentary Credits, UCP 600 or most current revision- has been established to cover the cost of required improvements, to be released only upon authorization of the City Engineer [and](#) [Director](#). The amount of the letter of credit shall equal 110 percent of the value of the improvements to be guaranteed; or
 - 3. Provide bonds in a form approved by the City Attorney.
- C. Such assurance of full and faithful performance shall be for a sum determined by the City Engineer as sufficient to cover the cost of required improvements, including related engineering and incidental expenses.
- D. If the applicant fails to carry out provisions of the agreement and the City has expenses resulting from such failure, the City shall call on the performance guarantee for reimbursement. If the amount of the performance guarantee exceeds the expense incurred, the remainder shall be released. If the amount

{00790562; 1 }

Created: 2021-09-08 09:53:48 [EST]

(Supp. No. 1, Update 3)

of the performance guarantee is less than the expense incurred, the applicant shall be liable to the City for the difference.

{00790562; 1 }

Created: 2021-09-08 09:53:48 [EST]

(Supp. No. 1, Update 3)

Enrolled
Senate Bill 458

Sponsored by Senators FREDERICK, KNOPP; Senators GOLDEN, HANSELL, KENNEMER, PATTERSON, Representatives DEXTER, FAHEY, HUDSON, KROPF, LEIF, MEEK, MOORE-GREEN, NOBLE, SMITH DB, WRIGHT, ZIKA (at the request of Habitat for Humanity) (Presession filed.)

CHAPTER

AN ACT

Relating to land division for residential development; creating new provisions; and amending ORS 93.277, 94.775, 94.776, 197.365, 197.370, 197.375 and 197.380.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 2 of this 2021 Act is added to and made a part of ORS 92.010 to 92.192.

SECTION 2. (1) As used in this section, “middle housing land division” means a partition or subdivision of a lot or parcel on which the development of middle housing is allowed under ORS 197.758 (2) or (3).

(2) A city or county shall approve a tentative plan for a middle housing land division if the application includes:

(a) A proposal for development of middle housing in compliance with the Oregon residential specialty code and land use regulations applicable to the original lot or parcel allowed under ORS 197.758 (5);

(b) Separate utilities for each dwelling unit;

(c) Proposed easements necessary for each dwelling unit on the plan for:

(A) Locating, accessing, replacing and servicing all utilities;

(B) Pedestrian access from each dwelling unit to a private or public road;

(C) Any common use areas or shared building elements;

(D) Any dedicated driveways or parking; and

(E) Any dedicated common area;

(d) Exactly one dwelling unit on each resulting lot or parcel, except for lots, parcels or tracts used as common areas; and

(e) Evidence demonstrating how buildings or structures on a resulting lot or parcel will comply with applicable building codes provisions relating to new property lines and, notwithstanding the creation of new lots or parcels, how structures or buildings located on the newly created lots or parcels will comply with the Oregon residential specialty code.

(3) A city or county may add conditions to the approval of a tentative plan for a middle housing land division to:

(a) Prohibit the further division of the resulting lots or parcels.

(b) Require that a notation appear on the final plat indicating that the approval was given under this section.

- (4) In reviewing an application for a middle housing land division, a city or county:
- (a) Shall apply the procedures under ORS 197.360 to 197.380.
 - (b) May require street frontage improvements where a resulting lot or parcel abuts the street consistent with land use regulations implementing ORS 197.758.
 - (c) May not subject an application to approval criteria except as provided in this section, including that a lot or parcel require driveways, vehicle access, parking or minimum or maximum street frontage.
 - (d) May not subject the application to procedures, ordinances or regulations adopted under ORS 92.044 or 92.046 that are inconsistent with this section or ORS 197.360 to 197.380.
 - (e) May allow the submission of an application for a middle housing land division at the same time as the submission of an application for building permits for the middle housing.
 - (f) May require the dedication of right of way if the original parcel did not previously provide a dedication.
- (5) The type of middle housing developed on the original parcel is not altered by a middle housing land division.
- (6) Notwithstanding ORS 197.312 (5), a city or county is not required to allow an accessory dwelling unit on a lot or parcel resulting from a middle housing land division.
- (7) The tentative approval of a middle housing land division is void if and only if a final subdivision or partition plat is not approved within three years of the tentative approval. Nothing in this section or ORS 197.360 to 197.380 prohibits a city or county from requiring a final plat before issuing building permits.

SECTION 2a. Section 2 of this 2021 Act applies only to a middle housing land division permitted on or after July 1, 2022.

SECTION 3. ORS 93.277 is amended to read:

93.277. A provision in a recorded instrument affecting real property is not enforceable if:

(1) The provision would allow the development of a single-family dwelling on the real property but would prohibit the development of, **or the partitioning or subdividing of lands under section 2 of this 2021 Act for:**

- (a) Middle housing, as defined in ORS 197.758; or
 - (b) An accessory dwelling unit allowed under ORS 197.312 (5); and
- (2) The instrument was executed on or after [August 8, 2019] **January 1, 2021.**

SECTION 4. ORS 94.776 is amended to read:

94.776. (1) A provision in a governing document that is adopted or amended on or after [August 8, 2019] **January 1, 2020**, is void and unenforceable to the extent that the provision would prohibit or have the effect of unreasonably restricting the development of, **or the dividing of lands under section 2 of this 2021 Act for**, housing that is otherwise allowable under the maximum density of the zoning for the land.

(2) **Lots or parcels resulting from the division of land in a planned community are subject to the governing documents of the planned community and are allocated assessments and voting right on the same basis as existing units.**

SECTION 5. ORS 94.775 is amended to read:

94.775. (1) [Unless the declaration expressly allows the division of lots in a planned community,] Judicial partition by division of a lot in a planned community is not allowed under ORS 105.205[.], **unless:**

- (a) **The declaration expressly allows the division of lots in a planned community; or**
- (b) **The lot may be divided under ORS 94.776.**

(2) The lot may be partitioned by sale and division of the proceeds under ORS 105.245.

[(2)] (3) The restriction specified in subsection (1) of this section does not apply if the homeowners association has removed the property from the provisions of the declaration.

SECTION 6. ORS 197.365 is amended to read:

197.365. Unless the applicant requests to use the procedure set forth in a comprehensive plan and land use regulations, a local government shall use the following procedure for an expedited land

division, as described in ORS 197.360, or a middle housing land division under section 2 of this 2021 Act:

(1)(a) If the application for *[expedited]* a land division is incomplete, the local government shall notify the applicant of exactly what information is missing within 21 days of receipt of the application and allow the applicant to submit the missing information. For purposes of computation of time under this section, the application shall be deemed complete on the date the applicant submits the requested information or refuses in writing to submit it.

(b) If the application was complete when first submitted or the applicant submits the requested additional information within 180 days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.

(2) The local government shall provide written notice of the receipt of the completed application for *[an expedited]* a land division to any state agency, local government or special district responsible for providing public facilities or services to the development and to owners of property within 100 feet of the entire contiguous site for which the application is made. The notification list shall be compiled from the most recent property tax assessment roll. For purposes of appeal to the referee under ORS 197.375, this requirement shall be deemed met when the local government can provide an affidavit or other certification that such notice was given. Notice shall also be provided to any neighborhood or community planning organization recognized by the governing body and whose boundaries include the site.

(3) The notice required under subsection (2) of this section shall:

(a) State:

(A) The deadline for submitting written comments;

(B) That issues that may provide the basis for an appeal to the referee must be raised in writing prior to the expiration of the comment period; and

(C) That issues must be raised with sufficient specificity to enable the local government to respond to the issue.

(b) Set forth, by commonly used citation, the applicable criteria for the decision.

(c) Set forth the street address or other easily understood geographical reference to the subject property.

(d) State the place, date and time that comments are due.

(e) State a time and place where copies of all evidence submitted by the applicant will be available for review.

(f) Include the name and telephone number of a local government contact person.

(g) Briefly summarize the local decision-making process for the *[expedited]* land division decision being made.

(4) After notice under subsections (2) and (3) of this section, the local government shall:

(a) Provide a 14-day period for submission of written comments prior to the decision.

(b) Make a decision to approve or deny the application within 63 days of receiving a completed application, based on whether it satisfies the substantive requirements of the *[local government's]* **applicable** land use regulations. An approval may include conditions to ensure that the application meets the applicable land use regulations. For applications subject to this section, the local government:

(A) Shall not hold a hearing on the application; and

(B) Shall issue a written determination of compliance or noncompliance with applicable land use regulations that includes a summary statement explaining the determination. The summary statement may be in any form reasonably intended to communicate the local government's basis for the determination.

(c) Provide notice of the decision to the applicant and to those who received notice under subsection (2) of this section within 63 days of the date of a completed application. The notice of decision shall include:

(A) The summary statement described in paragraph (b)(B) of this subsection; and

(B) An explanation of appeal rights under ORS 197.375.

SECTION 7. ORS 197.370 is amended to read:

197.370. (1) Except as provided in subsection (2) of this section, if the local government does not make a decision on an expedited land division **or a middle housing land division, as defined in section 2 of this 2021 Act**, within 63 days after the application is deemed complete, the applicant may apply in the circuit court for the county in which the application was filed for a writ of mandamus to compel the local government to issue the approval. The writ shall be issued unless the local government shows that the approval would violate a substantive provision of the applicable land use regulations or the requirements of ORS 197.360 **or section 2 of this 2021 Act**. A decision of the circuit court under this section may be appealed only to the Court of Appeals.

(2) After seven days' notice to the applicant, the governing body of the local government may, at a regularly scheduled public meeting, take action to extend the 63-day time period to a date certain for one or more applications for an expedited land division **or a middle housing land division** prior to the expiration of the 63-day period, based on a determination that an unexpected or extraordinary increase in applications makes action within 63 days impracticable. In no case shall an extension be to a date more than 120 days after the application was deemed complete. Upon approval of an extension, the provisions of ORS 197.360 to 197.380 **and section 2 of this 2021 Act**, including the mandamus remedy provided by subsection (1) of this section, shall remain applicable to the [*expedited*] land division, except that the extended period shall be substituted for the 63-day period wherever applicable.

(3) The decision to approve or not approve an extension under subsection (2) of this section is not a land use decision or limited land use decision.

SECTION 8. ORS 197.375 is amended to read:

197.375. (1) An appeal of a decision made under ORS 197.360 and 197.365 **or under ORS 197.365 and section 2 of this 2021 Act** shall be made as follows:

(a) An appeal must be filed with the local government within 14 days of mailing of the notice of the decision under ORS 197.365 (4)[,] and shall be accompanied by a \$300 deposit for costs.

(b) A decision may be appealed by:

(A) The applicant; or

(B) Any person or organization who files written comments in the time period established under ORS 197.365.

(c) An appeal shall be based solely on allegations:

(A) Of violation of the substantive provisions of the applicable land use regulations;

(B) Of unconstitutionality of the decision;

(C) That the application is not eligible for review under ORS 197.360 to 197.380 **or section 2 of this 2021 Act** and should be reviewed as a land use decision or limited land use decision; or

(D) That the parties' substantive rights have been substantially prejudiced by an error in procedure by the local government.

(2) The local government shall appoint a referee to decide the appeal of a decision made under [ORS 197.360 and 197.365] **this section**. The referee [*shall*] **may** not be an employee or official of the local government. However, a local government that has designated a hearings officer under ORS 215.406 or 227.165 may designate the hearings officer as the referee for appeals of a decision made under ORS 197.360 and 197.365.

(3) Within seven days of being appointed to decide the appeal, the referee shall notify the applicant, the local government, the appellant if other than the applicant, any person or organization entitled to notice under ORS 197.365 (2) that provided written comments to the local government and all providers of public facilities and services entitled to notice under ORS 197.365 (2) and advise them of the manner in which they may participate in the appeal. A person or organization that provided written comments to the local government but did not file an appeal under subsection (1) of this section may participate only with respect to the issues raised in the written comments submitted by that person or organization. The referee may use any procedure for decision-making consistent with the interests of the parties to ensure a fair opportunity to present information and

argument. The referee shall provide the local government an opportunity to explain its decision, but is not limited to reviewing the local government decision and may consider information not presented to the local government.

(4)(a) The referee shall apply the substantive requirements of the [local government's] **applicable** land use regulations and ORS 197.360 **or section 2 of this 2021 Act**. If the referee determines that the application does not qualify as an expedited land division [as described in ORS 197.360] **or a middle housing land division, as defined in section 2 of this 2021 Act**, the referee shall remand the application for consideration as a land use decision or limited land use decision. In all other cases, the referee shall seek to identify means by which the application can satisfy the applicable requirements.

(b) **For an expedited land use division**, the referee may not reduce the density of the land division application.

(c) The referee shall make a written decision approving or denying the application or approving it with conditions designed to ensure that the application satisfies the land use regulations, within 42 days of the filing of an appeal. The referee may not remand the application to the local government for any reason other than as set forth in this subsection.

(5) Unless the governing body of the local government finds exigent circumstances, a referee who fails to issue a written decision within 42 days of the filing of an appeal shall receive no compensation for service as referee in the appeal.

(6) Notwithstanding any other provision of law, the referee shall order the local government to refund the deposit for costs to an appellant who materially improves his or her position from the decision of the local government. The referee shall assess the cost of the appeal in excess of the deposit for costs, up to a maximum of \$500, including the deposit paid under subsection (1) of this section, against an appellant who does not materially improve his or her position from the decision of the local government. The local government shall pay the portion of the costs of the appeal not assessed against the appellant. The costs of the appeal include the compensation paid the referee and costs incurred by the local government, but not the costs of other parties.

(7) The Land Use Board of Appeals does not have jurisdiction to consider any decisions, aspects of decisions or actions made under ORS 197.360 to 197.380 **or section 2 of this 2021 Act**.

(8) Any party to a proceeding before a referee under this section may seek judicial review of the referee's decision in the manner provided for review of final orders of the Land Use Board of Appeals under ORS 197.850 and 197.855. The Court of Appeals shall review decisions of the referee in the same manner as provided for review of final orders of the Land Use Board of Appeals in those statutes. However, notwithstanding ORS 197.850 (9) or any other provision of law, the court shall reverse or remand the decision only if the court finds:

(a) That the decision does not concern an expedited land division as described in ORS 197.360 **or middle housing land division as defined in section 2 of this 2021 Act** and the appellant raised this issue in proceedings before the referee;

(b) That there is a basis to vacate the decision as described in ORS 36.705 (1)(a) to (d), or a basis for modification or correction of an award as described in ORS 36.710; or

(c) That the decision is unconstitutional.

SECTION 9. ORS 197.380 is amended to read:

197.380. Each city and county shall establish [an application fee] **application fees** for an expedited land division **and a middle housing land division, as defined in section 2 of this 2021 Act**. The [fee shall] **fees must** be set at a level calculated to recover the estimated full cost of processing an application, including the cost of appeals to the referee under ORS 197.375, based on the estimated average cost of such applications. Within one year of establishing [the fee required] **a fee** under this section, the city or county shall review and revise the fee, if necessary, to reflect actual experience in processing applications under ORS 197.360 to 197.380 **and section 2 of this 2021 Act**.

Passed by Senate April 15, 2021

.....
Lori L. Brocker, Secretary of Senate

.....
Peter Courtney, President of Senate

Passed by House May 17, 2021

.....
Tina Kotek, Speaker of House

Received by Governor:

.....M.,....., 2021

Approved:

.....M.,....., 2021

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2021

.....
Shemia Fagan, Secretary of State

EXPEDITED LAND DIVISIONS

197.360 “Expedited land division” defined; applicability. (1) As used in this section:

(a) “Expedited land division” means a division of land under ORS 92.010 to 92.192, 92.205 to 92.245 or 92.830 to 92.845 by a local government that:

(A) Includes only land that is zoned for residential uses and is within an urban growth boundary.

(B) Is solely for the purposes of residential use, including recreational or open space uses accessory to residential use.

(C) Does not provide for dwellings or accessory buildings to be located on land that is specifically mapped and designated in the comprehensive plan and land use regulations for full or partial protection of natural features under the statewide planning goals that protect:

(i) Open spaces, scenic and historic areas and natural resources;

(ii) The Willamette River Greenway;

(iii) Estuarine resources;

(iv) Coastal shorelands; and

(v) Beaches and dunes.

(D) Satisfies minimum street or other right-of-way connectivity standards established by acknowledged land use regulations or, if such standards are not contained in the applicable regulations, as required by statewide planning goals or rules.

(E) Will result in development that either:

(i) Creates enough lots or parcels to allow building residential units at 80 percent or more of the maximum net density permitted by the zoning designation of the site; or

(ii) Will be sold or rented to households with incomes below 120 percent of the median family income for the county in which the project is built.

(b) “Expedited land division” includes land divisions that create three or fewer parcels under ORS 92.010 to 92.192 and meet the criteria set forth in paragraph (a) of this subsection.

(2) An expedited land division as described in this section is not a land use decision or a limited land use decision under ORS 197.015 or a permit under ORS 215.402 or 227.160.

(3) The provisions of ORS 197.360 to 197.380 apply to all elements of a local government comprehensive plan and land use regulations applicable to a land division, including any planned unit development standards and any procedures designed to regulate:

(a) The physical characteristics of permitted uses;

(b) The dimensions of the lots or parcels to be created; or

(c) Transportation, sewer, water, drainage and other facilities or services necessary for the proposed development, including but not limited to right-of-way standards, facility dimensions and on-site and off-site improvements.

(4) An application for an expedited land division submitted to a local government shall describe the manner in which the proposed division complies with each of the provisions of subsection (1) of this section. [1995 c.595 §7; 2015 c.260 §1]

197.365 Application for expedited land division; notice requirements; procedure. Unless the applicant requests to use the procedure set forth in a comprehensive plan and land use regulations, a local government shall use the following procedure for an expedited land division, as described in ORS 197.360:

(1)(a) If the application for expedited land division is incomplete, the local government shall notify the applicant of exactly what information is missing within 21 days of receipt of the application and allow the applicant to submit the missing information. For purposes of computation of time under this section, the application shall be deemed complete on the date the applicant submits the requested information or refuses in writing to submit it.

(b) If the application was complete when first submitted or the applicant submits the requested additional information within 180 days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.

(2) The local government shall provide written notice of the receipt of the completed application for an expedited land division to any state agency, local government or special district responsible for providing public facilities or services to the development and to owners of property within 100 feet of the entire contiguous site for which the application is made. The notification list shall be compiled from the most recent property tax assessment roll. For purposes of appeal to the referee under ORS 197.375, this requirement shall be deemed met when the local government can provide an affidavit or other certification that such notice was given. Notice shall also be provided to any neighborhood or community planning organization recognized by the governing body and whose boundaries include the site.

(3) The notice required under subsection (2) of this section shall:

(a) State:

(A) The deadline for submitting written comments;

(B) That issues that may provide the basis for an appeal to the referee must be raised in writing prior to the expiration of the comment period; and

(C) That issues must be raised with sufficient specificity to enable the local government to respond to the issue.

(b) Set forth, by commonly used citation, the applicable criteria for the decision.

(c) Set forth the street address or other easily understood geographical reference to the subject property.

(d) State the place, date and time that comments are due.

(e) State a time and place where copies of all evidence submitted by the applicant will be available for review.

(f) Include the name and telephone number of a local government contact person.

(g) Briefly summarize the local decision-making process for the expedited land division decision being made.

(4) After notice under subsections (2) and (3) of this section, the local government shall:

(a) Provide a 14-day period for submission of written comments prior to the decision.

(b) Make a decision to approve or deny the application within 63 days of receiving a completed application, based on whether it satisfies the substantive requirements of the local government's land use regulations. An approval may include conditions to ensure that the application meets the applicable land use regulations. For applications subject to this section, the local government:

(A) Shall not hold a hearing on the application; and

(B) Shall issue a written determination of compliance or noncompliance with applicable land use regulations that includes a summary statement explaining the determination. The summary statement may be in any form reasonably intended to communicate the local government's basis for the determination.

(c) Provide notice of the decision to the applicant and to those who received notice under subsection (2) of this section within 63 days of the date of a completed application. The notice of decision shall include:

- (A) The summary statement described in paragraph (b)(B) of this subsection; and
- (B) An explanation of appeal rights under ORS 197.375. [1995 c.595 §8; 2015 c.260 §3]

197.370 Failure of local government to approve or deny application within specified time. (1) Except as provided in subsection (2) of this section, if the local government does not make a decision on an expedited land division within 63 days after the application is deemed complete, the applicant may apply in the circuit court for the county in which the application was filed for a writ of mandamus to compel the local government to issue the approval. The writ shall be issued unless the local government shows that the approval would violate a substantive provision of the applicable land use regulations or the requirements of ORS 197.360. A decision of the circuit court under this section may be appealed only to the Court of Appeals.

(2) After seven days' notice to the applicant, the governing body of the local government may, at a regularly scheduled public meeting, take action to extend the 63-day time period to a date certain for one or more applications for an expedited land division prior to the expiration of the 63-day period, based on a determination that an unexpected or extraordinary increase in applications makes action within 63 days impracticable. In no case shall an extension be to a date more than 120 days after the application was deemed complete. Upon approval of an extension, the provisions of ORS 197.360 to 197.380, including the mandamus remedy provided by subsection (1) of this section, shall remain applicable to the expedited land division, except that the extended period shall be substituted for the 63-day period wherever applicable.

(3) The decision to approve or not approve an extension under subsection (2) of this section is not a land use decision or limited land use decision. [1995 c.595 §9]

197.375 Appeal of decision on application for expedited land division; notice requirements; standards for review; procedure; costs. (1) An appeal of a decision made under ORS 197.360 and 197.365 shall be made as follows:

(a) An appeal must be filed with the local government within 14 days of mailing of the notice of the decision under ORS 197.365 (4), and shall be accompanied by a \$300 deposit for costs.

(b) A decision may be appealed by:

(A) The applicant; or

(B) Any person or organization who files written comments in the time period established under ORS 197.365.

(c) An appeal shall be based solely on allegations:

(A) Of violation of the substantive provisions of the applicable land use regulations;

(B) Of unconstitutionality of the decision;

(C) That the application is not eligible for review under ORS 197.360 to 197.380 and should be reviewed as a land use decision or limited land use decision; or

(D) That the parties' substantive rights have been substantially prejudiced by an error in procedure by the local government.

(2) The local government shall appoint a referee to decide the appeal of a decision made under ORS 197.360 and 197.365. The referee shall not be an employee or official of the local government. However, a local government that has designated a hearings officer under ORS

215.406 or 227.165 may designate the hearings officer as the referee for appeals of a decision made under ORS 197.360 and 197.365.

(3) Within seven days of being appointed to decide the appeal, the referee shall notify the applicant, the local government, the appellant if other than the applicant, any person or organization entitled to notice under ORS 197.365 (2) that provided written comments to the local government and all providers of public facilities and services entitled to notice under ORS 197.365 (2) and advise them of the manner in which they may participate in the appeal. A person or organization that provided written comments to the local government but did not file an appeal under subsection (1) of this section may participate only with respect to the issues raised in the written comments submitted by that person or organization. The referee may use any procedure for decision-making consistent with the interests of the parties to ensure a fair opportunity to present information and argument. The referee shall provide the local government an opportunity to explain its decision, but is not limited to reviewing the local government decision and may consider information not presented to the local government.

(4)(a) The referee shall apply the substantive requirements of the local government's land use regulations and ORS 197.360. If the referee determines that the application does not qualify as an expedited land division as described in ORS 197.360, the referee shall remand the application for consideration as a land use decision or limited land use decision. In all other cases, the referee shall seek to identify means by which the application can satisfy the applicable requirements.

(b) The referee may not reduce the density of the land division application. The referee shall make a written decision approving or denying the application or approving it with conditions designed to ensure that the application satisfies the land use regulations, within 42 days of the filing of an appeal. The referee may not remand the application to the local government for any reason other than as set forth in this subsection.

(5) Unless the governing body of the local government finds exigent circumstances, a referee who fails to issue a written decision within 42 days of the filing of an appeal shall receive no compensation for service as referee in the appeal.

(6) Notwithstanding any other provision of law, the referee shall order the local government to refund the deposit for costs to an appellant who materially improves his or her position from the decision of the local government. The referee shall assess the cost of the appeal in excess of the deposit for costs, up to a maximum of \$500, including the deposit paid under subsection (1) of this section, against an appellant who does not materially improve his or her position from the decision of the local government. The local government shall pay the portion of the costs of the appeal not assessed against the appellant. The costs of the appeal include the compensation paid the referee and costs incurred by the local government, but not the costs of other parties.

(7) The Land Use Board of Appeals does not have jurisdiction to consider any decisions, aspects of decisions or actions made under ORS 197.360 to 197.380.

(8) Any party to a proceeding before a referee under this section may seek judicial review of the referee's decision in the manner provided for review of final orders of the Land Use Board of Appeals under ORS 197.850 and 197.855. The Court of Appeals shall review decisions of the referee in the same manner as provided for review of final orders of the Land Use Board of Appeals in those statutes. However, notwithstanding ORS 197.850 (9) or any other provision of law, the court shall reverse or remand the decision only if the court finds:

(a) That the decision does not concern an expedited land division as described in ORS 197.360 and the appellant raised this issue in proceedings before the referee;

(b) That there is a basis to vacate the decision as described in ORS 36.705 (1)(a) to (d), or a basis for modification or correction of an award as described in ORS 36.710; or

(c) That the decision is unconstitutional. [1995 c.595 §10; 2003 c.598 §37]

197.380 Application fees for expedited land division. Each city and county shall establish an application fee for an expedited land division. The fee shall be set at a level calculated to recover the estimated full cost of processing an application, including the cost of appeals to the referee under ORS 197.375, based on the estimated average cost of such applications. Within one year of establishing the fee required under this section, the city or county shall review and revise the fee, if necessary, to reflect actual experience in processing applications under ORS 197.360 to 197.380. [1995 c.595 §11; 1999 c.348 §8]



OREGON

Department of
Land Conservation
& Development

Senate Bill 458 Guidance

(Updated July 8, 2021)

Background

Senate Bill 458 was adopted by the Oregon Legislature in 2021. The bill is a follow-up to House Bill 2001 - the bill that legalizes middle housing in many cities throughout the state - and allows lot divisions for middle housing that enable them to be sold or owned individually.

Senate Bill 458 Summary

For any city or county subject to the requirements of House Bill 2001, Senate Bill 458 requires those jurisdictions to allow middle housing lot divisions for any HB 2001 middle housing type (duplexes, triplexes, quadplexes, townhouses, and cottage clusters) built in accordance with ORS 197.758. Senate Bill 458 only applies to middle housing land divisions permitted on or after June 30, 2022.

The bill sets forth a series of parameters on how a city must process middle housing lot division applications. The city must apply an “expedited land division” process defined in ORS 197.360 through 197.380, and the applicant must submit a tentative plan for the division including the following:

- A proposal for development of middle housing in compliance with the Oregon residential specialty code and applicable middle housing land use regulations,
- Separate utilities for each dwelling unit,
- Easements necessary for utilities, pedestrian access, common use areas or shared building elements, dedicated driveways/parking, and dedicated common area,
- One dwelling unit per each resulting lot or parcel (except common areas), and
- Demonstration that the buildings will meet the Oregon residential specialty code.

Additionally, cities retain the ability to require or condition certain things, including further division limitations, street frontage improvements, and right-of-way dedication if the original parcel did not make such dedications. They *may not* subject applications to approval criteria outside of what is provided in the bill, including that a lot or parcel require driveways, vehicle access, parking, or min/max street frontage, or requirements inconsistent with House Bill 2001, including [OAR Chapter 660, Division 046](#).

Guidance

DLCD staff have received a significant number of questions regarding Senate Bill 458 and how cities or counties can best prepare to comply with the law. Below are answers to commonly asked questions. If you find that you have a question that has not been addressed in this document, please reach out to the Housing Team at housing.dlcd@dlcd.oregon.gov.

SB 458 Deadline

Question: This bill applies to middle housing lot divisions permitted on or after June 30, 2022. Will cities or counties need to incorporate these standards before this deadline?



Answer: *It is highly advisable, but not required, for cities or counties to incorporate middle housing lot division standards into their development codes. On the June 30, 2022 deadline, a city or county that has not incorporated lot division standards within their development codes would utilize the bill language directly to process middle housing lot divisions under SB 458.*

Question: Medium cities need to allow duplexes on lots/parcels that allow single-family detached dwellings by June 30, 2021 (i.e. this year). Are duplexes built between this deadline and the SB 458 deadline eligible for a middle housing lot division?

Answer: *A duplex built pursuant to ORS 197.758 (i.e. House Bill 2001) during this time period would be eligible to apply for a middle housing land division under SB 458 on June 30, 2022, provided it met the applicable requirements outlined in the bill.*

Question: Do cities or counties need to allow lot divisions for middle housing built prior to House Bill 2001?

Answer: *SB 458 requires a middle housing lot division application submit: "A proposal for development of middle housing in compliance with the Oregon residential specialty code and land use regulations applicable to the original lot or parcel allowed under ORS 197.758 (5)". This means that any lot division proposal will need to demonstrate compliance with both applicable building code and HB 2001 middle housing code in order to be eligible for a lot division under SB 458.*

There is a potential hypothetical scenario in which a pre-HB 2001 middle-housing type could make this demonstration, but 1.) this is an unlikely scenario and 2.) a jurisdiction retains the ability to require the applicant demonstrate the middle housing type complies with applicable building code and middle housing code before approving a middle housing lot division proposal.

Applicability, Application Process, and Submittal Requirements

Question: What middle housing types are eligible for division under SB 458?

Answer: *The bill specifies any lot or parcel that allows middle housing under ORS 197.758 (2) or (3) qualifies for a middle housing land division under SB 458. This includes duplexes, triplexes, quadplexes, townhouses, and cottage clusters in applicable cities and unincorporated, urban portions of Metro counties. Accessory dwelling units are not eligible for lot division under SB 458.*

Question: SB 458 requires cities or counties to apply the expedited land division process. What is this?

Answer: *The expedited land division process is outlined in ORS 197.360 to 197.380. It is an alternative procedure application intended to streamline the review of land divisions under state law. While typical land use applications must be completed within 120 days (ORS 227.178), an expedited land division must be processed within 63 days or extended by the governing body of a local jurisdiction (not to exceed 120 days).*

Question: The expedited land division process under ORS 197.360(1)(b) seems to only include divisions of three or fewer parcels. Does this mean that a middle housing land division is limited to three total parcels?



Answer: No. First, ORS 197.360(1)(a) allows an expedited land division to be any size, while ORS 197.360(1)(b) clarifies that the expedited land division process is also extended to divisions of three or fewer parcels.

Additionally, SB 458 requires that local jurisdictions apply the expedited land division procedure outlined in ORS 197.360 to 197.380, a “middle housing land division” is distinct from an “expedited land division” and may contain more than three parcels, provided that each resultant lot or parcel contains one unit.

Question: Can a city or county apply a typical land division process to a middle housing land division application?

Answer: SB 458 specifies that a city or county “shall apply the procedures under ORS 197.360 to 197.380”. This means that a city or county cannot require a middle housing land division to undergo a standard land division pathway.

Question: This bill seems to suggest that the jurisdiction must approve an application for middle housing land division after or concurrent with the issuance of a building permit, which is backwards in comparison to typical subdivisions. Can you clarify when an applicant may submit an application for a middle housing lot division?

Answer: Senate Bill 458 does not state that a middle housing land division must occur either before or after the issuance of a building permit. We anticipate that most middle housing land divisions will occur before the application for a building permit, similar to other housing land division processes. However, we also anticipate that there may be circumstances in which an applicant submits a land division application after developing a middle housing type. In both scenarios, the applicant must demonstrate that the proposal meets applicable building code and middle housing code as well as the requirements outlined in SB 458.

Additionally, the bill specifies that a city or county may allow the submission of a middle housing land division at the same time as submission of an application for a building permit, but they are not required to.

Lot Division Standards and Conditions for Approval

Question: SB 458 sets out several requirements that applicants must demonstrate outlined in the summary above. What else are jurisdictions allowed to require or condition?

Answer: The bill allows jurisdictions to require or condition the following:

- Prohibition of further division of the resulting lots or parcels
- Require notation in the final plat indicating approval was provided under SB 458 (later on, this will be the resultant ORS reference)
- Require street frontage improvements where a lot or parcel abuts a street (consistent with House Bill 2001)
- Require right-of-way dedication if the original parcel did not previously provide a dedication

Question: Will jurisdictions be able to require applicants to submit tentative and final plats consistent with local platting standards?



Answer: Yes, jurisdictions may require that the applicant submit tentative and final plats in a manner consistent with their applicable platting standards.

Question: Can jurisdictions require that easements be submitted in a form approved by the City Attorney and address specific issues like maintenance and repair, cost-sharing, access, notice, damage, disputes, etc.?

Answer: Yes, cities are permitted to specify the format and issues an easement addresses, provided that they are specific to the types of easements specified in Section 2(2)(c) of the bill, including:

- A. Locating, accessing, replacing and servicing all utilities;
- B. Pedestrian access from each dwelling unit to a private or public road;
- C. Any common use areas or shared building elements;
- D. Any dedicated driveways or parking; and
- E. Any dedicated common area;

Question: What requirements are jurisdictions limited in requiring for a middle housing lot division?

Answer: The bill specifies that a jurisdiction may not subject a middle housing lot division application to approval criteria except as provided in Section 2 of the bill. The bill specifies that this includes the following:

- Require that a lot or parcel provide driveways, vehicle access, parking or minimum or maximum street frontage
- Subject an application to procedures, ordinances or regulations adopted under ORS 92.044 or 92.046 that are inconsistent with Section 2 of the bill or ORS 197.360 to 197.380.

Question: Does that mean jurisdictions cannot require off-street parking for middle housing?

Answer: Jurisdictions are still permitted to require off-street parking and all other land use regulations in accordance with the parameters set forth in administrative rule, OAR Chapter 660, Division 046, but they may not require that each resultant lot or parcel have off-street parking. Such a lot or parcel would be provided access to off-street parking via easement.

Question: Cities or counties cannot require street frontage under SB 458, but can they limit how many lots within a land division do not have street frontage? For example, could a city limit the number of cottages in a cottage cluster development that only have street access from an access easement?

Answer: The bill states that a city or county “may not subject an application to approval criteria except as provided in this section”. The restriction on minimum or maximum frontage is an explicit example of this prohibition. Because there is nothing in this section specifying the number of units that may only have street access from an access easement, a local jurisdiction would not be able to include such a limitation as a standard or condition of approval.



Question: Section 2 (4)(b) allows cities or counties to require street frontage improvements. Would this enable them to require frontage improvements that might otherwise be exempted for single-family detached dwellings, which is prohibited in OAR Chapter 660, Division 046?

Answer: *Yes. This provision would enable a city to require street frontage improvements in situations where it might not otherwise be permitted under administrative rule. We also think this can be a compelling incentive to better address the street frontage deficiencies that persist today in older single-family neighborhoods.*

Question: Does SB 458 require local jurisdictions to approve vertical divisions (i.e. divisions in which one or more units of middle housing is not on the ground floor) of middle housing in addition to horizontal divisions?

Answer: *Senate Bill 458 does not speak to vertical divisions of middle housing and requires that each resultant lot or parcel contain exactly one unit. Therefore, cities are not required to allow vertical divisions of middle housing.*

Townhouses

Question: Does SB 458 apply to lot divisions for townhouses allowed under HB 2001?

Answer: *The bill applies to any lot or parcel that allows middle housing under ORS 197.758, including townhouses. Local jurisdictions must allow townhouse proposals to undergo the lot division process outlined in SB 458, including the application of the procedures outlined in ORS 197.360 through 197.380.*

Question: The bill restricts cities or counties from applying minimum or maximum frontage requirements to lots or parcels created under SB 458. This seems to conflict with OAR 660-046-0220(3)(b) regarding minimum street frontages applied to townhouses. Are jurisdictions permitted to apply minimum street frontages to townhouses?

Answer: *Yes, SB 458 specifies that in order for a middle housing proposal to be eligible for a land division, it must comply with all of the land use regulations applicable to the original lot or parcel allowed under ORS 197.758 (5), which includes the full scope of administrative rules outlined in OAR Chapter 660, Division 046. Therefore, local governments are able to, but are not required to, apply minimum street frontages to townhouses as permitted in OAR 660-046-0220(3)(b).*

Local governments will not be able to apply minimum street frontage requirements for individual units for plexes and cottage clusters. However, they may apply lot dimensional standards to the parent lot as provided in OAR 660-046-0220. We recommend that local jurisdictions carefully consider the incentives and resulting form for each middle housing type when developing middle housing land use regulations.

SENATE BILL 458

CODE AMENDMENTS

Chapters 17.10, 17.18, 17.22, 17.28, 17.34, 17.36,
17.38, 17.40, and 17.100 Code Modifications



CODE AMENDMENTS OVERVIEW

- Primary goal is to amend Code in compliance with SB 458.
- Modifications also include housekeeping items, clear & objective language (C&O), and incorporation of plans to address limited land use development concerns.
- Majority of the C&O modifications are to Chapter 17.100, Land Division.
- Incorporation of plans requires references to specific documents, such as the 2011 TSP.
- Code will need to be updated again when specific documents are updated and adopted (e.g., when the 2022 TSP is adopted).
- Changes to Chapters 17.34, 17.36, 17.38, & 17.40 are purely housekeeping and C&O amendments and are not in response to SB 458.

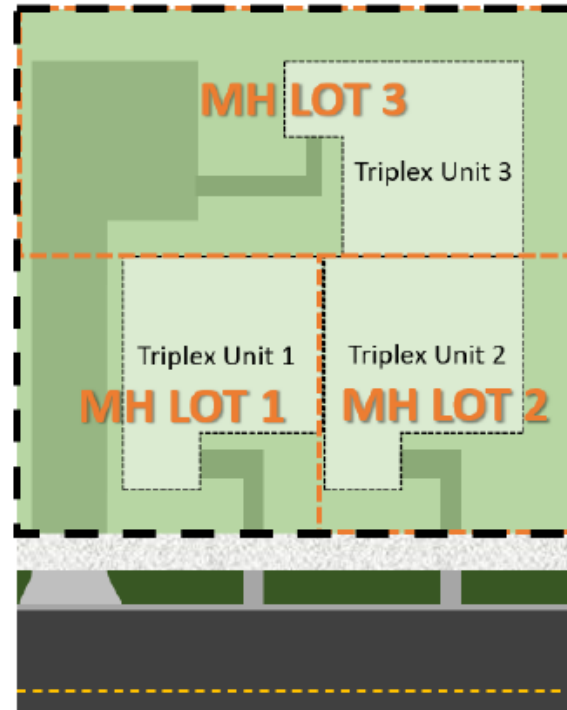


SB 458 OVERVIEW

- SB 458 is a follow-up to HB 2001, which required medium-sized cities to allow a duplex anywhere a single-family residence is permitted.
- SB 458 requires any city/county subject to HB 2001 requirements to adopt an expedited review process (63 days) for middle housing land divisions (i.e., the division of a duplex lot into two separate lots).
- Primary intent is to enable middle housing lots (i.e., lots with duplexes) to be divided for individual sale and ownership.
- SB 458 does not affect the quantity or density of middle housing.



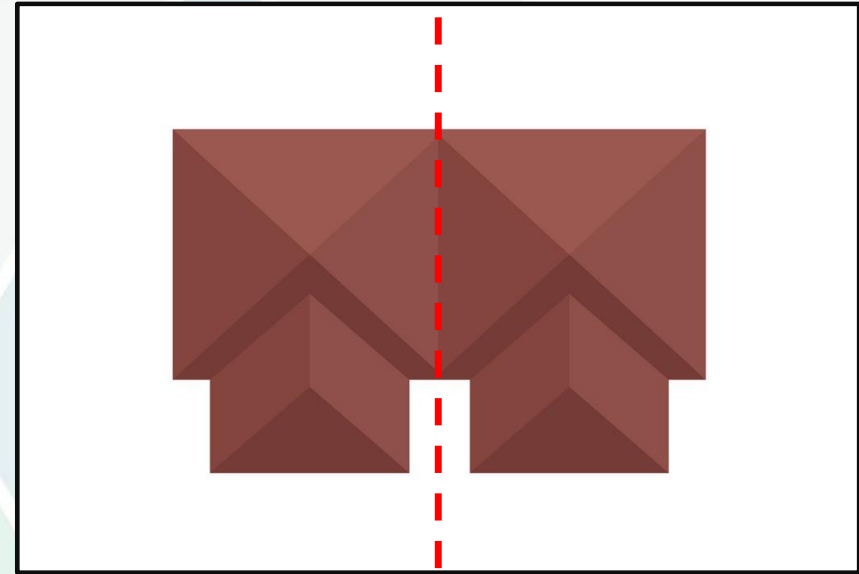
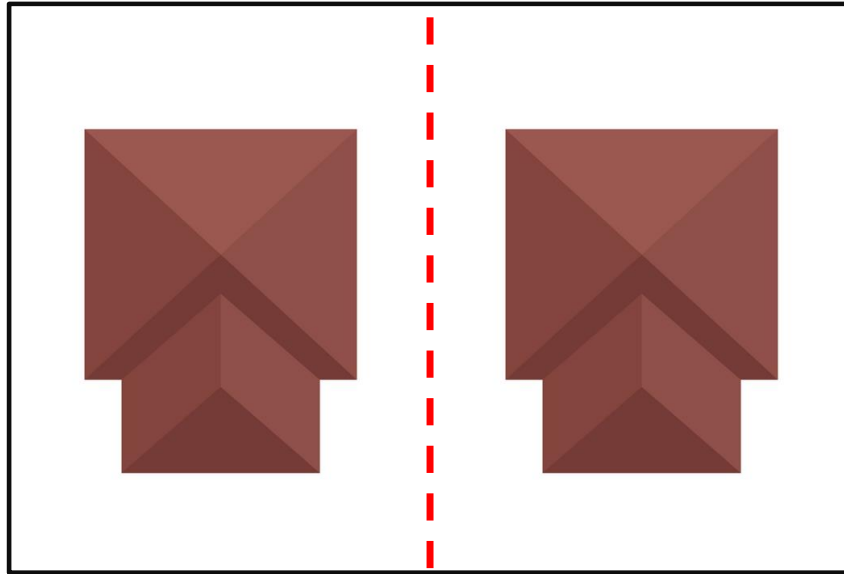
MIDDLE HOUSING LOT DIVISION EXAMPLE



TRIPLEX PARENT LOT:
Three Dwellings on a Lot.
Parent lot must meet
triplex lot standards.

3 MIDDLE HOUSING LOTS:
One for each unit. Allows
division to support
ownership, does not grant
additional development
rights. Each Dwelling Unit still
considered one unit of a
triplex.

MIDDLE HOUSING LOT DIVISION EXAMPLE



SUMMARY OF WORK SESSION DISCUSSION

- Prohibit further division of lots resulting from a middle housing land division?
 - Yes.
- Require notation on the final plat that indicates the approval was provided under SB 458?
 - Yes, and also on the deed.
- Require street frontage improvements where a lot or parcel abuts a street and/or ROW dedication if the original parcel did not previously provide dedication?
 - Yes.



SUMMARY OF WORK SESSION DISCUSSION

- Application fees for an expedited land division and a middle housing land division?
 - Make sure the fee covers all costs.
 - Staff reviewed the middle housing land division process and believes that \$2,500 should cover the estimated full cost of processing an application.
- Remove shared private drives and public access lanes from the code?
 - Yes.



SUMMARY OF WORK SESSION DISCUSSION

- Remove the requirement to publish a notice in the newspaper prior to a hearing?
 - Look into publishing a shorter legal notice or a general notice referring the public to the City’s webpage for upcoming hearings.
 - Also consider requirement to post to City’s social media account.
- Increase noticing distances if “excluding street right-of-way” is removed?
 - Remove “excluding street right-of-way” and leave distances as they are.



SUMMARY OF WORK SESSION DISCUSSION

- Require the elevation of all applications to the highest number procedure for review? (e.g., if an applicant requests a Type II Design Review, Type II Tree Removal Permit, and Type III Special Variance, all reviews would be elevated to a Type III review.)
 - Yes.
- Additional subdivision criteria?
 - PC and Council would like to explore this further but agreed it would be a much bigger discussion.

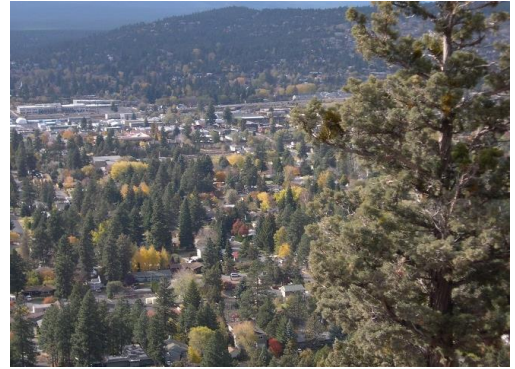


NEXT STEPS

- The Planning Commission's role in this process will be to review the proposed code amendments and forward a recommendation to the City Council.
- City Council hearing tentatively scheduled for May 2, 2022.
- The deadline for City Council to adopt SB 458 code changes is June 30, 2022.
 - Any city that has not incorporated middle housing lot division standards into their development code by June 30, 2022 will be required to utilize the SB 458 language directly in ORS to process middle housing lot divisions.



Senate Bill 458



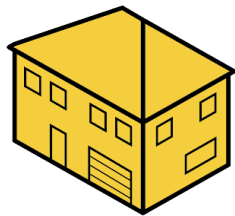
DLCD



*Sean Edging, Housing Planner
Oregon Department of Land Conservation and
Development*

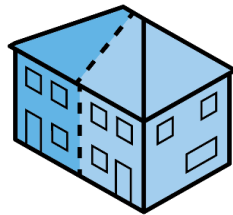
Follow up to HB 2001

House Bill 2001 enables

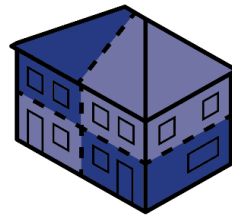


**Single-Family
Detached**

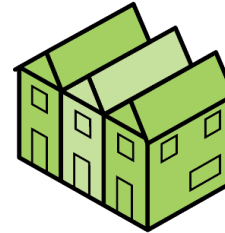
in cities >10,000
population



Duplexes
“on each lot
or parcel...”



**Triplexes and
Quadplexes**



Townhouses

“in areas...”



Cottage Clusters

in cities >25,000 population, Metro cities >1,000
population, and urbanized portions of Metro counties

“...that allow(s) for the development of detached single-family dwellings”



SB 458 (2021) Middle Housing Expedited Land Divisions

- Facilitate homeownership of middle housing
- Allows middle housing land divisions
 - Must meet locally adopted middle housing standards and building code
 - One home per lot (no ADUs)
 - Expedited process
 - Minimal additional requirements
 - No further divisions



Requirements

The proposal must:

- Meet local standards and building code
- Provide separate utilities and easements
- Result in exactly one unit per lot



Conditions

A city may also require:

- Frontage improvements
- Right-of-way dedication (when nonconforming)
- No further lot divisions or ADUs
- Plat notation of approval



Process

Expedited Land Division:

- Alternative to 120-day time period
- 63-days from complete application to decision
- Alternative appeal procedures



Sean Edging, *Housing Planner*
Oregon Department of Land Conservation and
Development

