

ARTICLE 11

LAND DIVISIONS AND PLANNED DEVELOPMENTS

11.000 Overview. The most permanent feature of a community is the way land is divided into parcels. This article describes the process of converting raw land into building sites. The primary goals of this design review are to better ensure that natural features have been taken into account; that roads and utilities are properly designed and installed, and that adequate open space has been provided. This article establishes the standards and procedures for property line adjustments, partitions, subdivisions, planned developments, and condominiums.

The following is a list of the main headings in this article.

- General Provisions
- Lot and Block Arrangement
- Property Line Adjustments
- Subdivisions and Partitions
- Planned Developments
- Condominiums
- Cluster Development
- Expedited and Middle Housing Land Divisions

[Ord. 5668, 4/11/07; Ord. 5968, 1/14/22]

GENERAL PROVISIONS

11.010 Relationship to State Law. Oregon Revised Statutes (ORS) Chapter 92 governs all land divisions. This chapter permits the City to develop its own procedures and review criteria. Because the state law particularly limits the City's discretion in these matters, users of this Code are encouraged to review ORS Chapter 92 at the same time. Because of the many state requirements in this area, this article cannot be relied upon to provide all of the regulations that are applicable to land divisions. At the time of adoption of this article in 1992, the following provisions of state law were identified as particularly applicable:

- ORS 92.025 - Prohibition of sales of lots or certain interests prior to recordation of plat.
- ORS 92.050 - Requirements of survey and plat of subdivisions and partitions.
- ORS 92.060 - Monument requirements for subdivisions, partitions and property line adjustments.
- ORS 92.090 - Requisites for approval of tentative subdivision or partition plat.
- ORS 92.120(5) - Disclosure of water rights information when dividing land.
- ORS 92.180 - Authority to review replats.
- ORS 92.205 - Policy on undeveloped subdivisions.

The foregoing is not intended to be an exclusive list of all of the provisions of state law, which must be considered by an applicant or staff in reviewing land division applications. By the same token, the provisions of state law, which are listed above, are not mandatory provisions of this Code. Rather they are merely intended to warn the reader of the need for careful contemporaneous review of state law.

11.020 Relationship to Public Improvements Article. All proposed developments governed by this article must meet the applicable design, and construction standards of Article 12 - Public Improvements.

11.030 Relationship to Other Local Regulations. All proposed development governed by this article must meet the underlying zoning district standards, applicable lot and block standards under this Section, the applicable on-site improvements of Article 9 (e.g., off-street parking, landscaping, buffering and screening), the applicable Natural Resource District Requirements of Article 6 (e.g., open space, floodplain, hillside development, significant wetlands, habitat assessment, riparian corridor, and Willamette River Greenway), and the post-

construction stormwater quality requirements in Title 12 of the Albany Municipal Code.

[Ord. 5764, 12/01/11; Ord. 5842, 1/01/15, Ord. 5886, 1/6/17]

11.040 Pre-application Conference. A pre-application conference, in accordance with Section 1.130, is required prior to submittal of an application for any land division. A pre-application conference is not mandatory for property line adjustments. [Ord. 5947, 1/01/21]

11.050 Acceptance of Application. The Director will review the application for compliance with established application requirements within thirty (30) working days. If the application is found to be incomplete, the Director will notify the applicant of the reasons, and advise the applicant of the requirements for an acceptable application.

11.060 Expiration Dates. See Section 1.310 for expiration of land division appeals. [Ord. 5768, 12/7/11; Ord. 5947, 1/01/21]

11.065 Recording Final Plats. Once city approval is granted for a final plat, it must be recorded with the Linn or Benton County Records Division. [Ord. 5475, 4/11/2001; Ord. 5768, 12/7/11, Ord. 5886, 1/6/17]

11.080 Subsequent Land Divisions and Property Line Adjustments. No subsequent land division or property line adjustment may be approved on the same lot or parcel until the previously approved land division or property line adjustment has been filed and recorded, or the previous approval is withdrawn or otherwise invalidated.

LOT AND BLOCK ARRANGEMENT

11.090 Lot and Block Arrangements. In any land division for single-family residential or middle housing development, lots and blocks shall conform to the following standards in this Article and other applicable provisions of this Code: [Ord. 5968, 1/14/22]

- (1) Lot arrangement must be such that there will be no foreseeable difficulties, for reason of topography or other condition, in securing building permits to build on all lots in compliance with the requirements of this Code with the exception of lots designated Open Space.
- (2) Lot dimensions must comply with the minimum standards of this Code. When lots are more than double the minimum area designated by the zoning district, those lots must be arranged so as to allow further subdivision and the opening of future streets where it would be necessary to serve potential lots. An urban conversion plan may be required in conjunction with submittal of tentative subdivision or partition plat.
- (3) Double frontage lots shall be avoided except when necessary to provide separation of residential developments from streets of collector and arterial street status or to overcome specific disadvantages of topography and/or orientation. When driveway access from arterials is necessary for several adjoining lots, those lots must be served by a combined access driveway in order to limit possible traffic hazards on such streets. The driveway shall designed and arranged so as to avoid requiring vehicles to back into traffic on arterials. An access control strip shall be placed along all lots abutting arterial streets requiring access onto the lesser class street where possible. [Ord. 5968, 1/14/22]
- (4) Side yards of a lot shall run at right angles to the street the property faces, except that on a curved street the side property line shall be radial to the curve.
- (5) The average block length shall not exceed 600 feet. Block length is defined as the distance along a street between the centerline of two intersecting through streets (Figure 11.090-1). The City may grant an exception to the average block length standard based on one or more of the conditions in subsections (a) through (c) below. [Ord. 5947, 1/01/21; Ord. 5968, 1/14/22]

- (a) Physical conditions preclude an average block length of 600 feet or less. Such conditions may include steep slopes or the existence of physical features, including, but not limited to: wetlands, riparian corridors, mature tree groves, or a resource under protection by State or Federal law.
- (b) Existing transportation or utility facilities, buildings, or other existing development on adjacent lands, including previously subdivided but vacant lots or parcels, physically preclude an average block length of 600 feet or less, considering the potential for redevelopment.
- (c) An existing public street or streets terminating at the boundary of the development site have a block length exceeding 600 feet or are situated such that the extension of the street(s) into the development site would create a block length exceeding 600 feet. In such cases, the average block length shall be as close to 600 feet as practicable. [Ord. 5968, 1/14/22]

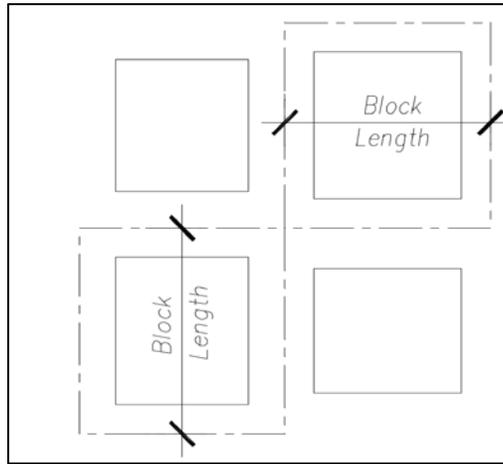


FIGURE 11.090-1. Block Length

[Ord. 5947, 1/01/21]

- (6) Off-street pedestrian pathways shall be connected to the street network and used to provide pedestrian and bicycle access in situations where a public street connection is not feasible.
- (7) With the minimum of townhouse development, the minimum frontage of a lot on a cul-de-sac shall be 22 feet as measured perpendicular to the radius. [Ord. 5886, 1/6/17; Ord. 5968, 1/14/22]
- (8) Flag lots are allowed only when the City Engineer has determined that the dedication and improvement of a public street is not feasible or not practical. The minimum width for a flag is 22 feet, except when access is shared by an access and maintenance agreement in which case each lot shall have a minimum width of 12 feet and a combined minimum of 24 feet. [Ord. 5886, 1/6/17; Ord. 5968, 1/14/22]
- (9) At all street intersections, an arc along the property lines shall be established so that construction of the street at maximum allowable width, centered in the right-of-way, shall require not less than a twenty-foot radius of the curb line. [Ord. 5445, 4/12/00; Ord. 5912, 7/11/18]

PROPERTY LINE ADJUSTMENTS

- 11.100 Definition. A property line adjustment means the relocation of a common property line between two abutting properties. It occurs when property lines separating two or three properties are moved to add and remove land from the properties. A property line adjustment does not result in the creation of a new lot.
- 11.110 Procedure. Property line adjustments are reviewed through the Type I procedure, with the Director acting as review body.
- 11.120 Review Criteria. The Director will approve, approve with conditions, or deny the request for a property line adjustment based on the following criteria:

- (1) The property line adjustment does not create a new lot or a land-locked parcel.
- (2) The adjusted properties are not reduced below the minimum dimensions of the zoning district and do not otherwise violate standards of this Code, or the adopted building codes.
- (3) The adjusted properties are in compliance with any adopted transportation, public facilities, or neighborhood plan.
- (4) The adjusted properties comply with any previous requirements or conditions imposed by a review body.

11.130 Submittal Requirements. An application for a property line adjustment shall include the following:

- (1) A completed application form signed by all property owners involved in the proposed adjustment.
- (2) A written narrative describing the proposed development and explanation of how the development satisfies applicable Albany Development Code standards and review criteria, including information required by Article 6 – Natural Resource Districts; and [Ord. 5886, 1/6/17]
- (3) A map showing the following details:
 - (a) The scale, north point and date of the map.
 - (b) The County Assessor’s tax map and lot number identifying each parcel involved in the adjustment.
 - (c) The location, width and purpose of any easements and driveway access to public right-of-way, existing or proposed.
 - (d) The area, before and after the property line adjustment, of each parcel.
 - (e) The proposed property lines and dimensions of each parcel.
 - (f) Existing and proposed utility services and stub locations, including water, sanitary sewer, drainage, power, gas and telephone.
 - (g) Adjacent rights-of-way with width shown.

[Ord. 5886, 1/6/17]

11.140 Recording Requirements. Property line adjustments must meet the recording requirements of ORS Chapter 92 and be executed by deed.

SUBDIVISIONS AND PARTITIONS

11.150 Difference Between Partitions and Subdivisions. A subdivision relates to the division of land into four or more lots within a calendar year. A partition relates to the division of land into two or three parcels within a calendar year. A partition does not include the three exclusions set forth in ORS 92.010 (7), including property line adjustments as described in Section 11.100 of this article.

11.160 Explanation of Process. Partitions and subdivisions are reviewed at two stages. A tentative plat is reviewed primarily for design aspects, such as connections to existing and future streets, preservation of natural features, drainage and floodplain considerations, and compliance with requirements of other portions of this Code. The tentative plat need not be prepared by a surveyor. The final plat is reviewed for conformance to the tentative plat as approved (with or without conditions) and applicable state or county laws or rules. The final plat must be prepared by a licensed land surveyor and is the instrument by which the land division is recorded.

11.170 Procedure.

- (1) Except as provided in subsection (2), a tentative subdivision or partition plat is reviewed through the Type I-L procedure. [Ord. 5968, 1/14/22]

- (2) A tentative subdivision plat that is reviewed concurrently with a Planned Development or a Cluster Development is subject to the Type III procedure. [Ord. 5968, 1/14/22]
- (3) A final subdivision or partition plat is reviewed through the Type I procedure. [Ord. 5562, 10/10/03]

11.180 Tentative Plat Review Criteria. Approval of a tentative subdivision or partition plat, including for Planned Development, will be granted if the review body finds that the applicant has met all of the following criteria which apply to the development: [Ord. 5968, 1/14/22]

- (1) The proposal meets the development standards of the underlying zoning district, and applicable lot and block standards of this Article. [Ord. 5886, 1/6/17; Ord. 5968, 1/14/22]
- (2) Development of any remainder of property under the same ownership can be accomplished in accordance with this Code.
- (3) Adjoining land can be developed or is provided access that will allow its development in accordance with this Code.
- (4) The Public Works Director has determined that transportation improvements are available to serve the proposed subdivision or partition in accordance with Article 12 or will be made available at the time of development. [Ord. 5968, 1/14/22]
- (5) The Public Works Director has determined that public facilities and utilities are available to serve the proposed subdivision or partition in accordance with Article 12 or will be made available at the time of development. [Ord. 5968, 1/14/22]
- (6) Activities and developments within special purpose districts must comply with the regulations described in Articles 4 (Airport Approach), 6 (Natural Resources), and 7 (Historic), as applicable. [Ord. 5764, 12/1/11]

11.190 Tentative Plat Conditions of Approval. The City may attach conditions of approval of a tentative subdivision or partition plat to ensure that the proposal will conform to the applicable review criteria.

11.200 Appeal of a Tentative Plat Decision. A decision to approve, approve with conditions, or deny a tentative subdivision or partition plat is a limited land use decision that may be appealed in accordance with the appeal procedures in Article 1. [Ord. 5947, 1/01/21]

11.210 Tentative Plat Submittal. All applications for tentative partition or subdivision approval must include a complete application form and copies of a plat showing the following details. The tentative plat need not be a finished drawing, but it should show all pertinent information to scale.

- (1) When the land to be subdivided contains only part of the tract owned or controlled by the subdivider, a sketch is required of a tentative layout for streets and utilities in the undivided portion indicating connections to existing or future improvements.
- (2) If the tentative plat does not show the following information, a vicinity map at a scale of 400 feet to the inch shall be prepared showing:
 - (a) All existing subdivisions, streets and tract lines of acreage land parcels immediately adjoining the proposed subdivision and between it and the nearest existing arterial streets.
 - (b) Name of the record owners of all contiguous land parcels.
 - (c) How streets and alleys in the proposed subdivision may connect with existing or proposed streets and alleys in neighboring subdivisions or undeveloped property to produce the most advantageous development of the entire neighborhood area.

- (3) The tentative plat shall be drawn to a standard engineer's scale where 1 inch equals 20 - 60 feet; or for areas over 100 acres, 1 inch equals 200 feet (1"=200').
- (4) The name, if any, of the land division; this name must not duplicate or resemble the name of another subdivision in the same county or in the same area within six miles of Albany and must be approved by the Director and the County Surveyor.
- (5) Date, north point, and scale of drawing.
- (6) Location of the land division by section, township and range, and a legal description sufficient to define the location and boundaries of the proposed tract or the tract designation or other description according to the real estate records of the County Assessor.
- (7) Names and addresses of the property owner(s), subdivider, surveyor, and engineer, if applicable.
- (8) The location, widths and names of all existing or platted streets or other public ways within or directly adjacent to the tract; and other important features, such as railroad rights-of-ways, and City boundary lines.

The location on the site and in the adjoining streets or property of existing and proposed sanitary sewers, storm drain facilities, (including post-construction stormwater quality facilities, detention facilities and supporting calculations), and water mains and services, culverts, ditches and drain pipes, all other utilities such as electric, gas and telephone conduits with invert elevations of sanitary and storm sewers at points of proposed connections.

[Ord. 5720, 8/12/09; Ord. 5842, 1/01/15]

- (9) Contour lines showing proposed excavations, fills and grading and having the following minimum intervals:

One-foot contour intervals for ground slopes less than 5 percent.

Two-foot contour intervals for ground slopes between 5 and 10 percent.

Five-foot contour intervals for ground slopes exceeding 10 percent.

The elevations of all control points which are used to determine the contours. Contours shall be related to City of Albany datum. [Ord. 5842, 1/01/15]

- (10) Approximate location of areas subject to storm water inundation or overflow with approximate high-water elevation.
- (11) Location, width, direction and flow of all water courses.
- (12) Location of properties within the 100-year floodplain and other areas subject to flooding or ponding (see the Floodplain standards in Article 6).
- (13) Location of the following significant natural resources:
 - (a) Significant wetlands identified on the City's Local Wetlands Inventory;
 - (b) Significant riparian areas on the City's Riparian Corridor Inventory;
 - (c) Significant wildlife habitat, if known;
 - (d) Existing channels or drainage ways as shown in the most current version of the City of Albany Stormwater Master Plan; and
 - (e) Slopes greater than 12 percent.

[Ord. 5764, 12/1/11; Ord. 5842, 1/01/15]

- (14) Location of the following natural features
 - (a) Non-significant wetlands identified on the City’s Local Wetlands Inventory, and other wetlands;
 - (b) Trees over 25 inches in circumference (approximately 8 inches in diameter) measured 4½ feet above the mean ground level from the base of the trunk. (To obtain the circumference of a tree with multiple trunks, add the individual trunk circumferences, which are greater than 6 inches in circumference);
 - (c) Springs; and
 - (d) Trees proposed for protection and method of protection.

[Ord. 5764, 12/01/11; Ord. 5842, 1/01/15]
- (15) Existing uses of the property and adjacent property within 100 feet, including the location of all existing structures and other impervious surfaces to remain on the property. [Ord. 5842, 1/01/15]
- (16) Zoning of and adjacent to the tract.
- (17) Any proposed streets: location, widths, names, approximate radii or curves. The relationship of all streets to any projected streets as shown on any development plan approved by the City.
- (18) Existing and proposed easements on the site and any existing easements on adjoining properties, showing the width and purpose of all easements.
- (19) Approximate dimensions of all lots, minimum lot size, proposed lot numbers, and block numbers [see Section 11.230 (11)].
- (20) Sites, if any, allocated for multiple-family dwellings, shopping centers, churches, industry, parks, schools, playgrounds, or public or semi-public buildings.
- (21) The following additional information must be submitted with the tentative plat:
 - (a) The names and addresses of all owners within 300 feet of the proposed land division.
 - (b) Total acreage in the subdivision and the percent of land dedicated to the public, not including easements.
 - (c) All public improvements proposed to be installed and the approximate time of installation including the method of financing.
 - (d) Special improvements to be made by the developer and the approximate time such improvements are to be completed (examples include entrance signs or walks, berms, bus stands, etc.). Sufficient detail regarding proposed improvements shall be submitted so that they may be checked for compliance with the objectives of these regulations, State laws and other applicable City ordinances. If, however, the nature of the improvement is such that it is impractical to prepare all necessary details prior to approval of the tentative plat, the additional details shall be submitted at least 30 days prior to approval of the final plat.
 - (e) An urban conversion plan for large acreage subdivisions.

[Ord. 5562, 10/10/03]

11.220 Final Plat Review Criteria. Approval of a final subdivision or partition plat will be granted if the review body finds that the applicant has met the following criteria:

- (1) The final plat is in substantial conformance with the tentative plat.
- (2) Conditions of approval attached to the tentative plat have been satisfied.

11.230 Final Plat Submittal. A partition or subdivision final plat must include the following information:

- (1) The date, scale, north point, legend, and controlling topography such as creeks, ditches, highways, and railroad right-of-way.

- (2) Legal description of the tract boundaries and the City of Albany case file number of the subdivision or partition.
- (3) Name and address of the owner(s), subdivider, and surveyor.
- (4) Reference points of existing surveys identified, related to the plat by distances and bearings, and referenced to a field book or map as follows:
 - (a) Stakes, monuments, or other evidence found on the ground and used to determine the boundaries of the land division.
 - (b) Adjoining corners of adjoining subdivisions.
 - (c) Other monuments found or established in making the survey of the land division or required to be installed by provisions of this Code.
- (5) National Geodetic Survey Control points as recorded in the County Surveyor's office; description and "ties" to such control points, to which all dimensions, angles, bearings and similar data on the plat shall be referred.
- (6) The location and width of streets and easements intercepting the boundaries of the tract.
- (7) The location of the 100-year floodplain for any body of water or natural drainageway (see Section 6.070), together with the method or source of such determination.
- (8) Lines with dimensions, bearings or deflection angles, radii, arcs, points of curvature and tangent bearings for tract, lot, and boundaries and street bearings shall be shown to the nearest second with basis of bearings. All distances shall be shown to the nearest one-hundredth foot.
- (9) The width of the portion of streets being dedicated, the width of any existing right-of-way and the width of each side of the center line. For streets that curve, curve data shall be based on the street center line and, in addition to center line dimensions, the radius, chord distance, bearing, and central angle shall be indicated.
- (10) Public utility and private easements, including access easements to the City of Albany for inspection and maintenance of approved private and/or public post construction stormwater quality facilities, clearly identified and, if already of record, their recorded reference. When possible, the bearing, and sufficient ties to locate the easement with respect to the land division, shall be shown. If the easement is being dedicated by the map, it shall be properly referenced in the owner's certificates of dedication. The purposes of easements shall also be identified. [Ord. 5842, 1/01/15]
- (11) Lot numbers beginning with the number "1" and continuing consecutively through the subdivision. No block numbers or letters will be used unless the subdivision is a continued phase of a previously recorded subdivision of the same name that has previously used block numbers or letters.
- (12) Identification of land to be dedicated for any purpose, public or private, to distinguish it from lots or parcels intended for sale, the following phrasing shall be used when identifying open space dedications:
 - (a) Common Open Space - shall be used to identify those parcels of land created for the purpose of common ownership, enjoyment and maintenance by an approved homeowner's association group or is listed as being held in common ownership, with appropriate deed restrictions and responsibilities, by owners of property within the subdivision.
 - (b) Public Open Space - shall be used when identifying those parcels of land dedicated to the City of Albany for open space purposes.
 - (c) Open Space Easement - shall be used to identify that portion of a lot, or lots that have established an open space easement agreement with the City of Albany.

- (13) Special building setback lines (as may be required by this Code) and solar easements, if any, which are to be made a part of the subdivision's deed restrictions. These must be shown in writing on the face of the plat, not graphically shown.
- (14) The following certificates, which may be combined when appropriate. All signatures on the original subdivision or partition plat must be in permanent black India type ink.
 - (a) A certificate signed by the City Community Development Director certifying City approval.
 - (b) A certificate signed and acknowledged by all parties having record title interest in the land, consenting to the preparation and recording of the plat.
 - (c) A certificate signed and acknowledged as above, dedicating to the public all land shown on the final plat intended for public access, use, or benefit.
 - (d) A certificate signed by the surveyor responsible for the survey and final map, the signature accompanied by seal, attesting that applicable requirements of City, state and county requirements have been met.
 - (e) A certificate signed by the County Surveyor.
 - (f) Other certifications as appropriate.
- (15) Filing of separate legal documents to achieve any of the above requirements (1 through 14) may be permitted by the Director when it can be shown that placing such information on the final plat is not required to achieve the purposes of this code. When a separate legal document is filed describing a geographically based restriction (such as an easement) the described area shall be marked with colored ink (other than black) on the City copy. A description of or reference to any other restrictions attached to the land division approval shall also be noted on the City copy.
- (16) Supplementary Information.
 - (a) A copy of any deed restrictions.
 - (b) A copy of any dedication requiring separate documents.
 - (c) Legal documents conveying property to the City.
 - (d) Assurance satisfactory to the Director of Public Works that improvements installed by the subdivider will be in conformity with the standards of the City and that streets and pedestrian ways will be improved.
 - (e) Financial assurances for all required improvements per Article 12, Public Improvements.
 - (f) Boundary and lot closure computations and total area of each lot, parcel, and open space dedication, in square feet or acres.
 - (g) Title Report.
- (17) For subdivisions, all monumentation shall comply with standards established in ORS 92.060. Witness corners may be set when it is impractical or impossible to set a monument in its true position providing course and distance is given to the true position. All monuments shall be clearly identified with the surveyor's name or registration number. Unless waived by the Director of Public Works, the intersection of all street centerlines shall be monumented according to County specifications.

PLANNED DEVELOPMENTS

11.240 Definition. A planned development is a master planned environment intended for a variety of related activities. It promotes an integrated, coordinated development of land, normally involving increased flexibility in use and design standards, with special incentives or restrictions on development. A planned development may be primarily residential uses with associated commercial uses, a mixed-use development, or it may be a commercial or industrial development.

11.250 Purposes. The purposes of a Planned Development are to:

- (1) Encourage more innovative planning that results in more desirable or sustainable environments or neighborhoods, improved protection of open spaces, transportation options, and site phasing of developments through the application of flexible and diversified land development standards than would otherwise occur under conventional land development procedures; and
- (2) Facilitate the efficient use of land and resources in regard to land uses, buildings, circulation systems, natural features, energy conservations, open space and utilities. [Ord. 5832, 4/9/14]

11.260 Procedure. A planned development is processed in two steps. The first step is review of the planned development project design and land uses by the Planning Commission under the Type III procedure. The final approval is reviewed by the Director through the Type I procedure. [Ord. 5832, 4/9/14]

11.270 Permitted Buildings and Uses. The following buildings and uses are permitted individually or in combination in a planned development:

- (1) Residential areas:
 - (a) Accessory buildings and uses (permitted in combination with principal uses only);
 - (b) Dwellings, multiple-family;
 - (c) Dwellings, single-family;
 - (d) Middle housing; [Ord. 5968, 1/14/22]
 - (e) Open space;
 - (f) Parks, playgrounds, golf courses, driving ranges, community centers, or recreation facilities supported by the planned development; and
 - (g) Commercial services to primarily serve the Residential Planned Development.
- (2) Industrial areas:
 - (a) Any use allowed outright through Site Plan Review, or by Conditional Use approval in the underlying zone is permitted. Uses specified as Conditional Uses in the underlying zone are limited to 25 percent of the site except that additional amounts may be approved through the Conditional Use process. [Ord. 5947, 1/01/21]
 - (b) Up to 25 percent of the total site area may be occupied by retail and service establishments not otherwise permitted within industrial districts provided that at least an equal area of the development has been previously or simultaneously developed for other permitted uses.
 - (c) Up to 25 percent of the total site area may be occupied by office uses not pertinent to industrial uses within the development or otherwise permitted within the underlying zoning district.
 - (d) Office uses, services, and other accessory uses totally supported by other permitted uses are allowed in addition to the percentage amounts specified above.

11.280 Standards That May Be Modified. The following standards may be modified in order to create developments that are superior to those that could be developed through the conventional development and design standards: [Ord. 5968, 1/14/22]

- (1) Development Standards. Except as noted in Table 11.330-1, minimum lot area, width and frontage, height and yard requirements (and for manufactured home parks, the manufactured home park standards in Article 10) will not be used to dictate the development but will act as general guidelines that may be adjusted to provide for a higher quality development. [Ord. 5968, 1/14/22]

- (2) Design Standards. Except as noted herein, design standards in Article 8 may be modified through a planned development if the Adjustment criteria in ADC 2.080 are met. Design standards identified in ADC 8.000 as not being eligible for Adjustments are also not eligible for modification through a Planned Development. [Ord. 5968, 1/14/22]
- (3) Minimum Parking. Where the development provides common parking areas for adjacent uses, no minimum number of parking spaces will be required. It is the developer's responsibility to provide adequate off-street parking and loading areas. In proposing the parking areas, the developer shall provide the City with information on expected demand for parking, including trip generation for the uses that share the parking area.
- (4) Streets. Private streets may be constructed in a planned development. These streets may be narrower than usual where on-street parking is prohibited and where access is limited to pre-approved locations. Any private street in an industrial planned development must be constructed to public standards. All lots must be provided with direct access to a public or private street.
- (5) Cottage Clusters. A cottage cluster project may be developed as a planned development (with a concurrent standard land division application) in order to provide the developer with flexibility in the number and configuration of units and lots. This is an alternative to the middle housing land division process under ADC 11.600-11.630. Cottage clusters that are divided as provided herein shall continue to be classified as Middle Housing. [Ord. 5968, 1/14/22]

11.290 Professional Design Team Required. An applicant for a planned development approval must certify in writing that a member of each of the following professions will be used in the planning and design process for the proposed development:

- (1) A licensed architect or professional designer;
- (2) A certified nurseryman, landscape architect, or landscape designer approved by the Director; and
- (3) A registered engineer or land surveyor.

11.300 Application Contents. A planned development proposal is reviewed in two stages. The following information is required to be submitted with each stage: [Ord. 5832, 4/9/14]

- (1) Preliminary planned development submittal requirements:
 - (a) Planned Development Program. A written statement outlining the following details: planning objectives to be achieved through the planned development; dwelling types and density; non-residential uses; lot layout; public and private access; parking; height of structures; lighting; landscaped areas and provisions for continued maintenance; water supply; sewage disposal; drainage; and areas devoted to various uses. This statement should include a description of the character of the proposed development and adjacent areas, discussion of how the proposed development will relate to the natural environment and significant natural resources of the site and adjacent areas.
 - (b) The location of existing and planned water, sewerage, and drainage facilities, including line sizes and how they will tie into existing facilities.
 - (c) The location of all existing and planned sidewalks, pedestrian paths, bike paths and where they will connect with existing facilities.
 - (d) The location and utilization of land uses and structures including public and/or private parks, open space or common areas.
 - (e) A tabulation of land area to be devoted to each use, and a calculation of the average residential density per acre, if applicable.
 - (f) A boundary survey or a certified boundary description by a licensed surveyor.

- (g) Data, drawings, and/or elevations clearly establishing the scale, character and relationship of buildings, streets, and open space.
- (h) Detailed building and landscaping plans and elevations.
- (i) A transportation impact analysis, where required by the City Engineering Division of the Public Works Department.
- (j) A development schedule for commencement and of construction, or a phasing schedule if phased development is proposed.
- (k) If the development will be divided into different ownerships, any additional information generally required for a land division tentative plat approval and not required above.
- (l) Other applicable Site Plan Review information in Section 2.490(5).
[Ord. 5832, 4/09/14; Ord. 5842, 1/01/15; Ord. 5947, 1/01/21]

Interim submittal requirement repealed per Ord. 5832, 4/09/14.

- (2) Final submittal requirements in addition to the information on the approved preliminary plan:
 - (a) The character and location of signs.
 - (b) Plans for street improvements and grading or earth-moving plans.
 - (c) Any additional requirements of final land division submittal, if the land is to be divided.
[Ord. 5832, 4/09/14]

11.310 Preliminary Plan Submittal Review Criteria. A planned development request will be granted interim approval by the review body if the development meets the Site Plan Review criteria of Section 2.450, Section 2.455 (if applicable), and all of the applicable criteria in (1) through (7). [Ord. 5947, 1/01/21; Ord. 5968, 1/14/22]

- (1) The increased flexibility in Code standards and permitted uses will result in an improved development for the City, the surrounding area, and users of the development as compared to strict compliance with Code provisions.
- (2) The project design results in a more efficient provision of open space or utilization of the natural features of the site.
- (3) The project design results in a more efficient utilization of materials and public resources including streets, utilities, and energy supplies.
- (4) Provisions will be established to ensure the continued maintenance of any common areas.
- (5) More usable and suitable recreational facilities and other common areas are provided than would normally be provided under conventional development standards.
- (6) The planned development satisfies the development standards in Section 11.330.
- (7) Proposals for land divisions satisfy the standards in Sections 11.090 and 11.180, except as modified by the proposed planned development.
[Ord. 5832, 4/9/14; Ord. 5968, 1/14/22]

11.320 Conditions of Approval. The City may attach conditions of approval of a planned development to ensure that the proposal will conform to the applicable review criteria.

11.325 Phasing Planned Developments. The applicant may provide for development of the project in phases. Each phase shall provide a proportionate share of the development facilities and amenities as approved. See Section 1.310 for land use approval time periods. [Ord. 5832, 4/9/14; Ord. 5947, 1/01/21]

11.330 Planned Development Standards. In conjunction with standard requirements for setbacks and landscaped areas, the following standards apply to planned developments:

- (1) Open Space and Common Areas in Residential, Mixed-Use and other Non-Industrial Planned Developments. Open space or common areas shall be provided for common enjoyment. In all residential developments and mixed-use developments, except as provided in subsections (b) and (h), 25 percent of the gross land area shall be devoted to open space, outdoor living area or common areas as follows. [Ord. 5968, 1/14/22]
 - (a) Land that may be counted towards the open space requirement includes:
 - Natural resources accessible to the public;
 - Common recreational space or commonly enjoyed amenities accessible to residents, including indoor or rooftop amenities – the total square footage of indoor amenities will be subtracted from the total land area; and
 - Common landscaped areas and paths but excluding sidewalks and planter strips in the right-of-way.
 - (b) If proposing less than 25 percent open space, the applicant must demonstrate that the amount of open space proposed is appropriate to the scale and character of the planned development and well located to serve the residents and public, with high quality improvements designed to address the enjoyment, safety, and comfort of users. In no case shall open space of less than 15 percent of the gross land area be approved. [Ord. 5968, 1/14/22]
 - (c) Locations, shapes, sizes and other characteristics of open spaces shall be consistent with their proposed uses and the purposes of the planned development.
 - (d) Land in the right-of-way may not count towards the open space requirement unless designed with larger planter strips to allow for mature trees, a multi-use path, or a landscaped median.
 - (e) Side and rear yards may not count towards the minimum open space requirements. Front yards may count toward the open space requirements in residential developments if they are shared by more than one dwellings unit. [Ord. 5968, 1/14/22]
 - (f) Outdoor open space or living areas required by this Article may be dedicated to the City provided the size and amount of the proposed dedication meets the criteria of the City for neighborhood parks by one-half and if the City agrees to accept the dedication. The square footage of land dedicated for public parks shall be deemed a part of the development site for the purpose of computing density.
 - (g) Approved vegetated post-construction stormwater quality facilities are allowed in open space, outdoor living area and common areas. [Ord. 5832, 4/09/14; Ord. 5842, 1/01/15]
 - (h) Cottage clusters are exempt from the 25 percent open space requirement and subsections (a) through (f); however, subsection (g) applies. Cottage clusters must meet the common courtyard standards in ADC 8.175(4), except as modified by the proposed planned development pursuant to subsection 11.280(2) or as modified through Adjustment review. [Ord. 5968, 1/14/22]
- (2) Natural Resources. The planned development shall provide for the protection of significant landscape features including Oak groves, heritage trees as defined by the Albany Municipal Code and land located within Albany’s natural resource overlay districts and any historic sites and landmarks. Natural and cultural resources shall integrate the proposed development with the environmental characteristics of the site and adjacent uses. [Ord. 5832, 4/9/14]
- (3) Underground Utilities. In any planned development, all electric and telephone facilities, fire alarm conduits, street light wiring, and other wiring, conduits and similar facilities shall be placed underground by the developer, unless allowed above ground by the review body.
- (4) Density. When calculating density of a proposed planned development, the gross area including streets and park land dedications shall be included, except for land in the Significant Wetland overlay district

and waterways. The maximum density permitted per zoning district is outlined in Table 11.330-1 below. [Ord. 5947, 1/01/21; Ord. 5968, 1/14/22]

TABLE 11.330-1. Maximum density permitted per zoning district.

	RS-10	RS-6.5	RS-5 & HM	RM	RMA	OS
Maximum dwelling units per acre*	4	6	8	25	35	1**

*In Middle Housing Zoning Districts, additional density to allow for middle housing may be permitted. Middle housing lot sizes shall not be less than the minimum lot size for the housing type in the applicable zoning district.

** Allows 1 residential unit per existing lot

[Ord. 5801, 2/13/13; Ord. 5832, 4/9/14; Ord. 5947, 1/01/21; Ord. 5968, 1/14/22]

- (5) Building Spacing and Yard Requirements. The plan shall provide adequate building separation to allow for light, ventilation, and visual and acoustic privacy for residences and other structures. Fences, insulation, walks, barriers, and landscaping shall be used, as appropriate, for the protection and aesthetic enhancement of property and the privacy of its occupants, screening of objectionable views, and reduction of noise. [Ord. 5832, 4/9/14]
- (6) Building Locations. Taller buildings shall be located within the planned development in such a way as to avoid adverse impact on neighboring lower buildings and shall not invade the privacy of the occupants of adjacent lower buildings. [Ord. 5832, 4/9/14]
- (7) Perimeter Compatibility. The plan shall minimize adverse impacts of proposed uses and structures in the planned development on existing and anticipated uses and structures on adjacent properties and neighborhoods. The buffering and screening standards in Sections 9.210-9270 apply. If topographical or other physical barriers do not provide reasonable privacy and mitigation of potential adverse impacts on existing uses adjacent to the development, the development shall provide additional setbacks, buffering or screening between residential and non-residential uses. [Ord. 5832, 4/9/14]

11.340 Dedication and Maintenance of Facilities. The review body may, as a condition of approval for any planned development, require that portions of the tract or tracts be set aside, improved, conveyed, or dedicated for the following uses:

- (1) Parks or playgrounds set aside, improved, or permanently reserved for the owners, residents, employees, or patrons of the development.
- (2) Whenever private common outdoor living area is provided, an association of owners must be created under state law. Owners of property within the development will automatically be members and will be assessed levies for maintenance of the outdoor living area. The period of existence of such association will be at least 20 years, and it will continue thereafter until a majority vote of the members shall terminate it.
- (3) Right-of-way width within the development must be maintained as private streets or be dedicated to the City when necessary in accordance with the Albany Comprehensive Plan. Other streets necessary to the proper development of adjacent properties may also be required to be dedicated. Streets must be constructed in accordance with city standards.
- (4) Easements necessary for the orderly extension of, maintenance of, or access to, public utilities.

11.350 Changes in the Approved Plan. Changes in the approved planned development may be made as long as they continue to meet the requirements of these provisions. Major changes, as determined by the Director, shall be reviewed by the Planning Commission using the Type III procedure. Minor changes shall be reviewed under the Type I procedure. [Ord. 5832, 4/9/14]

11.360 Revocation. In the event of failure to comply with approved plans, conditions of approval, stage development schedule; the Commission may, after notice and hearing, revoke a planned development permit. The

determination of the Commission shall become final 30 days after the date of decision unless appealed to the City Council.

- 11.370 Failure to Adhere to Approved Plan, Satisfy Conditions, or Comply with Phased Development Schedule. Failure to comply with approved preliminary or final development plans, conditions of approval, or phased development schedule, shall constitute a violation of this ordinance as prescribed in Article 1.

CONDOMINIUMS

- 11.380 Definition. A condominium is a building, or group of buildings, in which units are individually owned, and the shared structure, common areas and facilities are owned by all of the unit owners on a proportional, undivided basis. [Ord. 5968, 1/14/22]
- 11.390 Procedure. A proposal for new construction of a condominium or conversion of existing units into condominiums is reviewed through the procedure applicable to the housing type (e.g., multi-family development or middle housing). All condominium proposals must meet the appropriate requirements of ORS Chapter 100. [Ord. 5947, 1/01/21; Ord. 5968, 1/14/22]

CLUSTER DEVELOPMENT

- 11.400 Purpose. Cluster development is intended to protect and/or restore natural and other special features in the development of a site. In return, the more flexible standards found in this section may supersede other stricter standards of this Code. Cluster developments may provide greater flexibility, reduced and/or varied lot sizes, and more variety in permitted uses. Residential density may be transferred within the development in exchange for restoring degraded or marginal quality resources located in a Significant Natural Resource overlay district or for protecting natural or other special features of the site. Developments must satisfy high-quality master planning and design requirements. [Ord. 5923, 2/8/19]
- 11.405 Optional Nature. Cluster development is an optional form of development. Cluster development proposals are reviewed as part of the land division, site plan, or Conditional Use application processes. [Ord. 5947, 1/01/21]
- 11.410 Eligibility. To be eligible to apply for cluster development, all of the following are required:
- (1) Residential Zoning. The site must be located in a residential zoning district.
 - (2) Natural and Other Special Features. The site must contain one or more of the features listed in Section 11.460
 - (3) Professional Designer. An applicant for cluster development approval must certify in writing that a certified landscape architect, site planner, or landscape designer, approved by the Director, will be used in the planning and design process for the proposed development. [Ord. 5668, 4/11/07]
- 11.420 Relationship to Other Regulations. If the applicant chooses the cluster development option, and the site is deemed eligible by the City, these standards will supplement other provisions of this Code. For example, a subdivision proposed as a cluster development is also subject to other provisions of Article 11 of the Development Code. Other types of residential development are subject to Site Plan Review or Conditional Use review. These provisions apply to issuance of building permits in a cluster development and to ongoing uses and activities in a cluster development. [Ord. 5562, 10/10/03; Ord. 5668, 4/11/07; Ord. 5947, 1/01/21]
- 11.430 Procedure. Cluster development proposals are reviewed as a Type III procedure. [Ord. 5562, 10/10/03; Ord. 5668, 4/11/07]
- 11.440 Review Criteria. The review criteria for a cluster development are those that apply to a particular type of development. For example, the tentative plat criteria in Article 11 apply to cluster land divisions. (See Section 11.420 for relation to the other requirements.) Also, the review body must find that the application meets the following additional criteria: [Ord. 5968, 1/14/22]
- (1) The proposed development meets all of the requirements for cluster development.

- (2) The proposed development preserves or restores natural or other special features as identified and prioritized in ADC 11.460.

[Ord. 5562, 10/10/03; Ord. 5668, 4/11/07; Ord. 5764, 12/1/11; Ord. 5923, 2/8/19]

11.450 Natural Area Requirements. Cluster developments must provide a minimum of 20 percent of the site as permanent natural areas. Land designated as Open Space on the Comprehensive Plan or Zoning maps may not be used to fulfill this requirement. [Ord. 5562, 10/10/03; Ord. 5668, 4/11/07; Ord. 5764, 12/1/11]

11.460 Designation of Permanent Natural Area. The required natural area may be public or private. The minimum 20 percent of the gross acreage of the development site set aside as natural area in a cluster development shall be designated in the following priority order: [Ord. 5968, 1/14/22]

- (1) The first priority for natural area designation is significant tree groves identified on the South Albany Area Plan Organizational Framework map in the Comprehensive Plan (Figure 1), and Oregon White Oak (*Quercus garryana*) trees citywide equal to or greater than six and one-half feet in circumference (approximately 25-inches in diameter) measured as defined in Article 9.203(4). For individual trees, the natural area boundary is defined as the critical root zone (as defined in Article 9.203 (1)) plus a 10-foot buffer. [Ord. 5801, 2/13/13; Ord. 5947, 1/01/21]

- (2) The second priority for natural area designation is natural resources within the Significant Natural Resource overlay districts that are of degraded or marginal quality and subsequently restored to good quality in accordance with the quality levels in ADC Section 6.410(5). This priority shall be satisfied in the following order:

- (a) Habitat for western painted and northwestern pond turtles within the Habitat Assessment Overlay (/HA), as identified by a turtle habitat assessment, that is restored to good quality.
(b) Wetland within the Significant Wetland overlay district (/SW) that is restored to good quality.
(c) Riparian area within the Riparian Corridor overlay district (/RC) that is restored to good quality.

- (3) The third priority for natural area designation is protection of other environmentally sensitive areas, or natural and scenic features of the site. This priority shall be satisfied in the following order: [Ord. 5968, 1/14/22]

- (a) Good quality habitat for western painted and northwestern pond turtles near Thornton Lakes within the Habitat Assessment overlay (/HA) as identified by a turtle habitat assessment.
(b) Good quality wetland within the Significant Wetland overlay district (/SW).
(c) Good quality riparian area within the Riparian Corridor overlay district (/RC).
(d) Other wetlands not within the Significant Wetland overlay district, as shown on the City's Local Wetland Inventories, or by a delineation approved by the Oregon Department of State Lands.
(e) Existing channels identified in the most current version of the City of Albany Storm Water Master Plan.
(f) Springs.
(g) Land with natural slopes 12 percent or greater as designated by the Hillside Development overlay district (/HD).
(h) Wooded area with five or more healthy trees over 25 inches in circumference (approximately eight inches in diameter) measured as defined in Article 9.203(4), if approved by the City Forester. [Ord. 5947, 1/01/21]
(i) Land that provides bike or walking trails that connect to existing or proposed parks or trails, inventoried natural features, or areas zoned Open Space; or areas otherwise protected as permanent natural areas.
(j) Incorporate public parks, trails, trailheads or open space designated in the Parks, Recreation and Open Space Plan, the North Albany Refinement Plan, and the South Albany Area Plan. [Ord. 5801, 2/13/13]

- (k) Other features of the site unique to Albany, if approved by the Director.
- (4) The fourth priority for natural area designation is to create “open spaces” in and around neighborhoods. This priority is satisfied by any of the following:
 - (a) Continuity of adjacent open space corridors or parkways.
 - (b) A network of interconnected open space corridors.
 - (c) A buffer between neighborhoods.

11.470 Creation of Permanent Natural Areas.

- (1) Natural areas in a cluster development may be set aside and managed in one or more of the following ways:
 - (a) Portions of one or more individual lots; or
 - (b) Common ownership by residents of the development; or
 - (c) Third party (non-profit organization) whose primary purpose is to hold or manage the open space, subject to a reversionary clause in the event of dissolution of the non-profit organization; or
 - (d) Dedicated to City of Albany, if the City agrees to accept ownership and maintain the space.
- (2) Except for Subsection (1)(d) above, natural areas shall be subject to restrictive covenants and easements reviewed by the Community Development Director and recorded and filed when the subdivision plat for the project area is recorded. Except when allowed in 11.480, an easement shall include permanent provisions prohibiting the placement of structures or impervious surfaces, alteration of the ground contours, or any other activity or use inconsistent with the purpose of these provisions. [Ord. 5562, 10/10/03; Ord. 5668, 4/11/07]

11.480 Protection of Permanent Natural Areas.

- (1) If any applicable overlay districts allow it, the development may encroach into permanent natural areas, only under the following circumstances:
 - (a) Meets the requirements of all overlay districts in Articles 4, 6 and 7; and
 - (b) The encroachment is necessary to meet transportation, utility infrastructure requirements, or post construction stormwater quality requirements; or
 - (c) The encroachment is necessary to provide bike or walking trails that connect to existing or proposed parks or trails, inventoried natural features, or areas zoned Open Space or otherwise protected as permanent natural areas. [Ord. 5801, 2/13/13; Ord. 5842, 1/01/15]
- (2) Permanent alteration by grading may be authorized for the purpose of natural resource enhancement, such as wetland, riparian, or wildlife habitat restoration.
- (3) Significant wetlands, riparian corridors, and intermittent streams preserved as natural areas in a cluster development may be used for conveyance of storm waters only when the applicant has demonstrated that the discharge is compatible with the protection of the natural resource. These natural features shall not be used for drainage improvements, such as detention or retention ponds, or any other utility improvement necessary for development of the lots.
- (4) Areas set aside for permanent natural areas in a cluster development cannot be further subdivided.
- (5) Fences are permitted in and around the natural areas if consistent with the expressed purpose of the natural areas.
- (6) Provisions must be established to ensure the continued maintenance of areas designated as natural areas through Cluster Development. See Section 11.470. [Ord. 5562, 10/10/03; Ord. 5668, 4/11/07]

11.490 Permitted Uses. The uses allowed within cluster developments outside the permanent natural areas are determined by the underlying zoning district standards in Section 3.050, with the following exceptions:

- (1) On development sites greater than 20 acres, up to 20 percent of the housing units in RS-6.5 and RS-10 may be multi-family dwellings. [Ord. 5968, 1/14/22]
- (2) On development sites greater than 50 acres, up to two acres may be developed with neighborhood commercial uses through a Conditional Use review. The maximum building footprint of commercial or office uses shall be 3,000 square feet. Commercial and office uses shall be limited to restaurants with no drive-through service, and convenience-oriented and personal service-oriented uses as described in Article 22. [Ord. 5947, 1/01/21]

11.495 Development Standards. In a cluster development, the following development standards in Table 11.495-1 supersede the same standards in Section 3.190, Table 3.190-1. The maximum density permitted by zoning district is specified in the following table. [Ord. 5923, 2/8/19; Ord. 5947, 1/01/21; Ord. 5968, 1/14/22]

TABLE 11.495-1. Allowable density ranges per zone.

Standard	RS-10	RS-6.5	RS-5 & HM	RM	RMA	OS
Max. dwelling units per gross acre (1)	4	6	8	25	35	1 (5)
Minimum Lot Size (2)	None	None	None	None	None	N/A
Minimum Lot Width	None	None	None	None	None	N/A
Minimum Lot Depth	None	None	None	None	None	N/A
Minimum front setback (3)	15 ft.	10 ft.	10 ft.	10 ft.	10 ft.	N/A
Maximum Lot Coverage (4)	70%	70%	70%	70%	75%	N/A

- (1) In Middle Housing Zoning Districts, additional density to allow for middle housing may be permitted. Density for middle housing shall be based on the minimum lot size for the housing type in the applicable zoning district.
- (2) Lots on the perimeter of the cluster development shall meet the standards in 11.500.
- (3) Except, when lots are adjacent to existing development on the same side of the street, the setback shall be within 5 feet of the adjacent house(s) setback(s).
- (4) The maximum lot coverage may be up to 100 percent for lots that provide land only for the building footprint.
- (5) Allows 1 residential unit per existing lot.

[Ord. 5801, 2/13/13; Ord. 5947, 1/01/21; Ord. 5968, 1/14/22]

11.500 Perimeter Lot Compatibility. The following standards and exceptions will apply to the lots on the perimeter of a proposed cluster development.

- (1) Standards. The term “standard minimum lot size” as used in this section, means the minimum lot size allowed in the underlying base zone without any reductions in size allowed elsewhere in this Code.
 - (a) When the proposed cluster development abuts developed property in a lower density residential zoning district, the size of lots on the perimeter of the proposed cluster development shall be at least the standard minimum lot size applicable to the proposed housing type that is allowed in the zone underlying the cluster development. [Ord. 5968, 1/14/22]

Example:

<p>Proposed Cluster Development RS-6.5 <i>Perimeter lots must be at least 6,500 sf</i></p>	<p>Abutting Property w/ Lower Density Residential RS-10 Zoning</p>
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- (b) When the proposed cluster development abuts developed property in the same residential zoning district as the proposed cluster development, the size of lots on the perimeter of the cluster development shall be at least 70 percent of the standard minimum lot size applicable to the proposed housing type that is allowed in the underlying zoning district. [Ord. 5968, 1/14/22]

Example:

<p>Proposed Cluster Development <u>RS-10.0</u> <i>Perimeter lots must be at least 7,000 sf (70% of minimum lot size for underlying zoning)</i></p>	<p>Abutting Property w/ Same Residential Zoning: <u>RS-10</u></p>
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(2) Exceptions. The Perimeter Lot Compatibility standards do not apply in the following cases:

- (a) Perimeter lots that are adjacent to land that is zoned for higher density housing, mixed-use or non-residential uses, or to residentially zoned property not in residential use (such as educational, institutional, religious or park uses).
- (b) Where the same property owner owns the property abutting the proposed cluster development or when the perimeter lots share a property line with the Urban Growth Boundary.
- (c) If a buffer area is created as a separate property along the perimeter and is at least 20 feet wide, the buffer area shall become a permanent natural area and shall meet the provisions in Sections 11.470 and 11.480.

Example:

<p>Cluster Development with Buffer Area <i>No minimum lot size required on perimeter</i></p>	<p>Buffer Area at least 20 feet wide</p>	<p>Any Residential Zoning</p>
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(d) Cluster developments abutting property that is at least 1 acre in size. [Ord. 5668, 4/11/07]

11.510 removed by Ordinance 5968, effective 1/14/22.

11.520 Street Standards for Cluster Development. Local streets in a cluster development may be constructed to the Residential Street Design for Constrained Sites as described in Section 12.122(4). [Ord. 5968, 1/14/22]

11.530 South Albany Connectivity. Developments within the South Albany Area Plan boundary shall provide a connected street and pathway network. [Ord. 5801 2/13/13]

EXPEDITED AND MIDDLE HOUSING LAND DIVISIONS

11.600 Expedited Land Divisions. Expedited land divisions are defined by ORS 197.360(1).

- (1) Eligibility Criteria. For an expedited land division application to be considered, the application must demonstrate how the proposed division complies with each of the following provisions:
 - (a) The land is zoned for residential use and is within the urban growth boundary.
 - (b) The land is solely for the purpose of residential use, including recreational or open space uses accessory to residential use.

- (c) The land division will 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; or
 - ii. The Willamette River Greenway.
- (d) The land division satisfies minimum street or other right-of-way connectivity standards established by the City's Transportation System Plan, Engineering Design Standards, Standard Construction Specifications, and Albany Development Code.
- (e) The land division 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.
- (2) Tentative Plat Submittal. In addition to the items listed in ADC 11.210, an application for an expedited land division shall describe the manner in which the proposed division complies with each of the provisions in subsection (1) of this section.
- (3) Review Criteria. Approval of an expedited land division shall be based on the tentative plat review criteria in ADC 11.180.
- (4) Tentative Plat Conditions of Approval. Expedited land division shall be subject to the same conditions of approval as a subdivision or partition (ADC 11.190).

[Ord. 5968, 1/14/22]

11.610 Middle Housing Land Division. A middle housing land division is a partition or subdivision of a lot or parcel within a middle housing zoning district on which a middle housing project has been developed or approved for development under the provisions of this Code and ORS 197.758. Middle housing land divisions are regulated by this Code and ORS Chapter 92.

- (1) Review Criteria. Approval of a tentative plat for a middle housing land division will be granted if the Director finds that the applicant has met all of the following criteria:
 - (a) The middle housing development complies with the Oregon residential specialty code and the applicable ADC middle housing regulations, including but not limited to, the provisions in the base zone and in Sections 8.110-8.175. To demonstrate compliance with this criterion, the applicant shall submit approved building permits demonstrating that existing or proposed structures comply with the Oregon Residential Specialty Code and ADC middle housing regulations.
 - (b) Separate utility service connections for public water, sewer, and stormwater will be provided for each dwelling unit.
 - (c) Easements will be provided as necessary for each dwelling unit on the site for:
 - i. Locating, accessing, replacing, and servicing all utilities;
 - ii. Pedestrian access from each dwelling unit to a private or public road;
 - iii. Any common use areas or shared building elements;
 - iv. Any dedicated driveways or parking; and
 - v. Any dedicated common area.
 - (d) Exactly one dwelling unit will be located on each resulting lot (referred to as middle housing child lots), except for lots or tracts used as common areas, on which no dwelling units will be permitted.
 - (e) Buildings or structures on a resulting child lot will comply with applicable building codes provisions relating to new property lines.
 - (f) Notwithstanding the creation of new child lots, structures or buildings located on the newly created lots will comply with the Oregon Residential Specialty Code.

- (g) Where a resulting child lot abuts a street that does not meet City standards, street frontage improvements will be constructed and, if necessary, additional right-of-way will be dedicated, pursuant to ADC 12.140 and 12.200.
- (2) Tentative Plat Submittal. In addition to the items listed in ADC 11.210, an application for a middle housing land division shall include the following:
- (a) A description of the manner in which the proposed division complies with each of the provisions of subsection (1) of this section, including copies of approved building permits and other evidence necessary to demonstrate:
- i. How buildings or structures on a resulting child lot will comply with applicable building codes provisions related to new property lines; and
 - ii. Notwithstanding the creation of new lots, how structures or buildings located on the newly created child lots will comply with the Oregon Residential Specialty Code.
- (b) In addition to the items listed in ADC 11.210(1) – (20), copies of a plat showing the following details:
- i. Separate utility connections for each dwelling unit, demonstrating compliance with approval criterion 11.610(1)(b).
 - ii. Existing or proposed easements necessary for each dwelling unit on the plan, demonstrating compliance with the criterion 11.610(1)(c).
- (c) Copies of all required easements in a form approved by the City Attorney.
- (3) Tentative Plat Conditions of Approval.
- (a) The City may attach conditions of approval of a tentative plat for a middle housing land division to:
- i. Prohibit further division of the resulting child lots.
 - ii. Require that a notation appear on the final plat indicating:
 - The approval was given under ORS Chapter 92.
 - The type of middle housing approved on the subject site and noting that this middle housing type shall not altered by the middle housing land division.
 - Accessory dwelling units are not permitted on child lots resulting from a middle housing land division.
 - iii. Ensure that improvements associated with review criteria in ADC 11.610 are provided.
- (b) In accordance with ORS Chapter 92, the City shall not attach conditions of approval requiring that a child lot require driveways, vehicle access, parking, or minimum or maximum street frontage.
- (c) The tentative approval of a middle housing land division is void if and only if a final middle housing land division plat is not approved within three years of the tentative approval.

[Ord. 5968, 1/14/22]

11.620 Tentative Plat Procedures for Expedited and Middle Housing Land Division. Unless the applicant requests to use the procedure set forth in ADC 11.170, the City shall use the following procedure for an expedited land division, as described in ORS 197.360, or a middle housing land division. An expedited or middle housing land division 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.

- (1) Completeness Review.
- (a) If the application for an expedited or middle housing land division is incomplete, the City 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, 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) Notice of Application.

- (a) On receipt of a complete application, written notice shall be provided to owners of property within 100 feet of the entire contiguous site for which the application is made and to any City Council-recognized neighborhood association(s) whose boundaries include the site. Notice shall also be provided to any agency responsible for providing public services or facilities to the subject site. 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 City can provide an affidavit or other certification that such notice was given.
- (b) The notice shall include the following information:
 - i. The deadline for submitting written comments;
 - ii. A statement 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
 - iii. A statement that issues must be raised with sufficient specificity to enable the City to respond to the issue.
 - iv. The applicable criteria for the decision.
 - v. The place, date, and time that comments are due.
 - vi. A time and place where copies of all evidence submitted by the applicant will be available for review.
 - vii. The street address or other easily understood geographical reference to the subject property.
 - viii. The name and telephone number of a City contact person.
 - ix. A brief summary of the local decision-making process for the land division decision being made.
- (3) There shall be a 14-day period to allow for submission of written comments prior to the Director's decision.
- (4) There shall be no public hearing on the application.
- (5) The Director shall make a decision to approve or deny the application within 63 days of receiving a completed application.
- (6) The Director's decision shall be based on applicable elements of the Albany Development Code and Comprehensive Plan. An approval may include conditions to ensure that the application meets the applicable land use regulations.
- (7) Notice of the decision shall be provided to the applicant and to those who received notice under subsection (2) within 63 days of the date of a completed application. The notice of decision shall include:
 - (a) A summary statement explaining the determination; and
 - (b) An explanation of appeal rights under ORS 197.375.
- (8) Failure to approve or deny application within specified time.
 - (a) Except as provided in subsection (b), if the City does not make a decision on an expedited or middle housing 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 City to issue the approval. The writ shall be issued unless the City 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.
 - (b) After seven days' notice to the applicant, the City Council 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 or 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, including the mandamus remedy provided by subsection (a), shall remain applicable to the expedited or middle housing land division, except that the extended period shall be substituted for the 63-day period wherever applicable.

- (9) The applicant, or any person or organization that files written comments in the comment period established under subsection (3), may appeal the Director's decision within 14 days of the mailing of the decision notice and the appeal shall be based solely on allegations as listed in ORS 197.375(1)(c)(A) through (1)(c)(D) and shall be accompanied by a \$300 deposit for costs which is refundable if the appellant prevails.
- (10) The Director shall appoint a referee to decide the appeal decision and the appointed referee shall comply with ORS 197.375(3) through (6) when issuing a decision. The referee may not be a City employee or official.

[Ord. 5968, 1/14/22]

11.630 Final Plat Requirements for Expedited and Middle Housing Land Division

- (1) Expedited Land Division - Final Plan Review Criteria. Approval of a final plat for an expedited land division shall be consistent with the review criteria for subdivisions and partitions (ADC 11.220).
- (2) Middle Housing Land Division - Final Plan Review Criteria. Approval of a final plat for a middle housing land division will be granted if the review body finds that the applicant has met the following criteria:
 - (a) The final plat is in substantial conformance with the tentative plat.
 - (b) Conditions of approval attached to the tentative plat have been satisfied.
 - (c) All proposed improvements required to satisfy applicable standards of the ADC have been constructed.
- (3) Final Plat Submittal. An application for an expedited or middle housing land division final plat shall include the items listed in ADC 11.230.

[Ord. 5968, 1/14/22]