



**Work Session**

**WS**

**Milwaukie City Council**

## COUNCIL WORK SESSION

City Hall Council Chambers, 10501 SE Main Street  
& Zoom Video Conference ([www.milwaukieoregon.gov](http://www.milwaukieoregon.gov))

## AGENDA

FEBRUARY 20, 2024

**Council will hold this meeting in-person and through video conference.** The public may attend the meeting by coming to City Hall or joining the Zoom webinar, or watch the meeting on the [city's YouTube channel](#) or Comcast Cable channel 30 in city limits. For Zoom login visit <https://www.milwaukieoregon.gov/citycouncil/city-council-work-session-343>.

**To participate in this meeting by phone** dial 1-253-215-8782 and enter Webinar ID 829 4863 6541 and Passcode: 642219. To raise hand by phone dial \*9.

**Written comments** may be delivered to City Hall or emailed to [ocr@milwaukieoregon.gov](mailto:ocr@milwaukieoregon.gov). Council may take limited verbal comments.

**Note:** agenda item times are estimates and are subject to change.

**Page #**

**1. Title 17 Land Division Code Update – Discussion (4:00 p.m.)**

**11**

Staff: Vera Kolas, Senior Planner

**2. Adjourn (5:30 p.m.)**

### Meeting Accessibility Services and Americans with Disabilities Act (ADA) Notice

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### Executive Sessions

The City Council may meet in executive session pursuant to Oregon Revised Statute (ORS) 192.660(2); all discussions are confidential; news media representatives may attend but may not disclose any information discussed. Final decisions and actions may not be taken in executive sessions.



## COUNCIL WORK SESSION

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## MINUTES

FEBRUARY 20, 2024

**Council Present:** Councilors Shane Abma, Adam Khosroabadi, Rebecca Stavenjord, and Council President Robert Massey, and Mayor Lisa Batey

**Staff Present:** Justin Gericke, City Attorney  
Vera Kolias, Senior Planner  
Nicole Madigan, Deputy City Recorder  
Ann Ober, City Manager  
Scott Stauffer, City Recorder  
Laura Weigel, Planning Manager

**Mayor Batey** called the meeting to order at 4:15 p.m. and noted that the delayed start had been due to technical issues with the audio equipment in Council Chambers.

### 1. Title 17 Land Division Code Update – Discussion

**Kolias** introduced proposed changes to Milwaukie Municipal Code (MMC) Title 17, explaining staff's goals for updating the code and reviewing the code change process including the commentary section. The proposed changes included formatting and updating redundant language and streamlining review processes and application requirements. **Councilor Abma** and **Kolias** remarked on how the changes had been informed by county review timelines.

**Kolias** continued to review proposed code changes, noting language changes related to land partition requirements. **Council President Massey**, **Kolias**, and **Councilor Khosroabadi** remarked on how improved language would have helped in a recent example of a property owner wanting to partition their property.

**Councilor Stavenjord**, **Kolias**, and **Mayor Batey** remarked on inconsistencies between city and county code for middle housing types. **Kolias** reviewed proposed middle housing code changes relating to tax lot requirements. The group commented on the lot line, setback, and structure size rules for the "parent" and "child" sub-divided lots.

**Councilor Stavenjord** asked if the proposed code changes would impact the timeline for a developer doing middle housing. **Kolias** explained when middle housing land use applications are submitted and how building permits are tied to the land use applications.

**Councilor Khosroabadi** and **Kolias** remarked on how middle housing lot sizes are calculated and noted that state rules require a quicker turnaround time for such projects.

**Councilor Abma** and **Kolias** noted the city code could allow land use variances to the middle housing land division requirements. **Kolias** noted staff encouraged developers to think about as many possible land uses when applying.

**Mayor Batey** and **Kolias** remarked on how townhouse developments are different from middle housing projects.

**Councilor Stavenjord** asked if there was guidance the city could provide developers to script the process and reduce the city's liability with middle housing projects. **Kolias** agreed the city could create a document to provide information to developers. **Councilor Stavenjord** noted that other governments had developed artificial intelligence (AI) tools to help developers navigate these situations.

**Mayor Batey, Kolia**s, and **Councilor Khosroabadi** commented on whether state middle housing rules incentivized the development of such housing types, and they noted the city had received applications for middle housing projects with various funding structures. The group noted how certain property use restrictions are captured in the property deed and through entities like homeowner associations.

**Councilor Abma** and **Kolia**s noted that most of the recently adopted state housing laws were already in place in the MMC and Comprehensive Plan, and the proposed changes were just to help clarify state rules in the code. They noted that staff did not believe the code changes would cause policy changes and **Kolia**s confirmed that the county had reviewed the changes.

**Mayor Batey** asked why some code section numbers were left blank and **Kolia**s explained there were empty sections to allow for future code changes. The group talked about the \$200 fine amount noted in Title 17 and **Kolia**s reported that the proposed changes wouldn't change the fine that was already in the code and noted that staff would review the placement of the fine in Title 17.

**Mayor Batey** noted a possible additional change to clarify a definition related to right-of-way (ROW) permits.

**Kolia**s noted Council would discuss the Title 17 code changes again in April.

### **Volunteer of the Year Award Selection Process – Discussion**

**Council President Massey** encouraged Council to be more intentional about the process to select a volunteer of the year, noting the awkwardness of last year's balloting process.

**Mayor Batey** agreed about the awkward deliberations and the group agreed to continue the conversation at the end of the February 20 regular session.

### **2. Adjourn**

**Mayor Batey** adjourned the meeting at 5:15 p.m.

Respectfully submitted,

  
\_\_\_\_\_  
Scott Stauffer, City Recorder



# CITY OF MILWAUKIE

## Memorandum

**To:** City Council  
**From:** Joseph Briglio, Community Development Director  
**CC:** Ann Ober, City Manager  
**Date:** February 20, 2024  
**Re:** Community Development Department Monthly Update

Community Development, Economic Development, & Housing	Planning	Building	Engineering
<ul style="list-style-type: none"> <li>▪ City Hall</li> <li>▪ Economic Development</li> <li>▪ Affordable Housing</li> </ul>	<ul style="list-style-type: none"> <li>▪ Comprehensive Plan Implementation</li> <li>▪ Planning Commission</li> <li>▪ Design and Landmarks Committee</li> <li>▪ Land Use/ Development Review</li> </ul>	<ul style="list-style-type: none"> <li>▪ January Review</li> </ul>	<ul style="list-style-type: none"> <li>▪ CIP</li> <li>▪ Traffic/Parking Projects</li> <li>▪ Right-of-Way Permits</li> <li>▪ PIP</li> <li>▪ Document Administration</li> </ul>

### COMMUNITY DEVELOPMENT/ECONOMIC DEVELOPMENT/HOUSING

#### City Hall Projects

##### **Historic City Hall**

- City staff and representatives from Henry Point Development have executed the disposition and development agreement (DDA). The DDA serves as the roadmap for preparing city hall for its next intended use and ensuring that conditions such as maintaining the historic façade, among others, are compulsory with the property transfer.
- Staff and Henry Point Development have agreed on an MOU that will help ensure that the city and the new ownership continue to partner in events, improvements, and other complementary operations.
- Henry Point Development received land use approval from the Planning Commission on June 27 for minor modifications to the site.
- In November 2023, Henry Point provided official notice to the city that it had completed its due diligence items and would like to proceed with the sale and transfer of the building.
- On February 1, the sale of historic city hall closed. A condition of the sale required a restrictive covenant to be placed over the building façade in order to preserve its historic significance in perpetuity.

- Henry Point Development had submitted plans to the building division prior to the transfer of the property in anticipation of moving forward as quickly as possible. They pulled their demo permit soon after the sale and have already begun the environmental abatement measures and interior demolition.

### **New City Hall**

- A mini-split air conditioning system was installed for the server room on the second floor and the general contractor has been paid for all work. This project is officially closed as of February 1.

### **Economic Development**

- *Downtown:* Staff worked closely with the owner of Spoke and Word, an independent bookstore, to find a location on Main Street. They are officially open. Mama's and Hapa's Zero Waste Shop in the Axletree building is also newer to downtown and open. The planning division received a pre-application for a food cart pod at the old Peakes Funeral home next to new city hall. The applicant has stated that this is exploratory at the moment and that nothing has been finalized. The Collectors Mall, along with the adjacent store fronts, is currently for sale.
- *Milwaukie Marketplace:* Tenant improvements continue to occur inside the New Seasons space. They held a community based soft-opening event on February 8<sup>th</sup> and are targeting March 27 for its official grand opening (Confirmation still pending). The building division issued permits for Ace Hardware, which will be occupying the old Tuesday Morning space. Planet Fitness and Luna's Ice Cream are currently open.
- *Milwaukie Station:* In order to address new state wastewater requirements for food cart pods, staff worked on improving the site with sewer and grease interceptor traps. Without these upgrades, the food carts would no longer be allowed to operate at Milwaukie Station. The project is complete and operates well. Eleven of the twelve cart spaces are occupied, and the manager is working on heating options for customers during the winter months.
- *Enterprise Zone:* Staff have met with two businesses relocating to Milwaukie's north innovation area and taking advantage of the North Clackamas Enterprise Zone tax incentives. The two businesses are Swagelock and Overland Van Project. The Overland Van Project was recently approved for the incentive. Additionally, City and County staff recently met with Alpine Foods who are interested in applying in order to help offset their current expansion costs. These are still ongoing.
- *Urban Renewal Area Economic Development Programs:* Staff recently contracted with regional economic development consultant and expert, John Southgate, to help create the criteria associated with the 5-Year Action Plan's Predevelopment Assistance, Tenant Improvement, and Small Business Assistance programs. The MRCCAC convened in November and January to discuss the draft criteria and provide feedback on the emerging programs. The next step is to present the draft criteria to the Council in March.

### **Affordable Housing**

- *Sparrow Site:* The city purchased the parcel ("main property") at the northeast corner of SE Sparrow Street and the Trolley Trail from TriMet for the purpose of land banking to support

affordable housing several years ago. More recently, staff received a Metro Brownfields grant to support due diligence for the acquisition of 12302 SE 26<sup>th</sup> Avenue (“auxiliary property”) from TriMet in order to help rectify access constraints to the main property. The city closed on the 12302 SE 26<sup>th</sup> Ave (“auxiliary”) property and is considering next steps.

- *Coho Point*: The Developer presented an update to the city council during its February 21, 2023, work session and requested a 12-month extension of the Disposition and Development Agreement (DDA) due diligence period because of extenuating circumstances involving supply chain and subcontractor timing issues related to the COVID-19 pandemic. The due diligence period was officially extended to March 31, 2024. City Staff recently signed off on the Developer’s conditional letter of map revision (CLOMR) submittal to FEMA so that they can begin the approval process for building within the flood plain. Staff were notified on May 10, 2023, that Black Rock had submitted the CLOMR to FEMA. The review process typically takes several months, and FEMA has requested additional information from the applicant in September 2023 and January 2024. The applicant has 90 days to address FEMA’s comments and resubmit and will likely need another due diligence extension in order to get through the federal process.
- *Construction Excise Tax (CET) Program*: The CET Program was established by the city council in 2017 and codified within chapter 3.60 (Affordable Housing Construction Excise Tax) of the municipal code. The CET levy’s a one percent tax on any development over \$100,000 in construction value. In example, a property owner who is building an addition that has an assessed construction value of \$100,000 would have to pay \$1,000 in CET to the city. As development continues throughout the city, the CET fund increases in proportionality.

The city released its inaugural competitive bid process for CET funds through a formal Request for Proposals (RFP). This resulted in Hillside Park Phase I being awarded \$1.7M (requested \$2M) and the Milwaukie Courtyard Housing Project (Now called Milwaukie Shortstack) with \$300K (requested \$600K).

On March 7, 2023, the city council authorized the city manager to execute the necessary grant agreements in the amounts listed above. The grants agreements for both projects have been signed and executed, and initial funding disbursements have occurred. Staff will now work with the applicants to ensure that their projects meet the conditions for funding.

# PLANNING

## Comprehensive Plan Implementation

- Following a series of public workshops and an online survey, planning and community development staff are moving forward with proposed code amendments and an economic development toolkit for the Neighborhood Hubs project.

Staff held a work session with the City Council on December 19 to discuss the project status and next steps. Staff met with the Planning Commission in a work session on January 23 to provide an update and discussed a draft set of proposed code amendments. A public hearing with the Planning Commission has been scheduled for March 12. The required 30-day notice and code commentary was posted on February 7: <https://www.milwaukieoregon.gov/planning/za-2024-001>.

Measure 56 notices, 300-ft notices, and emails to NDAs and other stakeholders were sent the week of February 12

## Transportation Systems Plan (TSP)

- The TSP kicked off with the first Technical and Advisory Committee meetings in October and held a second meeting in January. The next Advisory Committee meeting will be held on Thursday, February 15, and the next Technical Committee meeting is scheduled for Wednesday, February 21. The first community-wide meeting is scheduled for March 21. To date, the project team has produced a plans and policy overview, financial forecast memo, a community profile, and a community engagement plan.

## Planning Commission

- ZA-2022-005: A Type V code amendment application related to Climate Friendly Equitable Communities rulemaking. The Planning Commission held a public hearing on February 14<sup>th</sup> and voted 6-0 to recommend approval of the code amendments. The City Council discussed the amendments during the regular session on March 7<sup>th</sup>. These code amendments were put on hold until the rulemaking process was complete in the fall of 2023. Staff will be taking an updated code package to the Planning Commission for a workshop on February 27, 2024, and then for a public hearing on March 12, 2024. A work session is scheduled for April 2, 2024, with the City Council.
- ZA-2023-004: A Type V code amendment application to update the bicycle parking quantity and development standards for new and redevelopment projects. The Planning Commission held a work session on the proposed amendments on July 25<sup>th</sup>. These code amendments were put on hold until the rulemaking process was complete in the fall of 2023. Staff will be bringing these amendments to the Planning Commission and City Council at the same time as the Climate Friendly Equitable Communities code package above.
- ZA-2024-001: A Type V code amendment package related to Neighborhood Hubs. The Planning Commission public hearing has been scheduled for March 12. The City Council public hearing has been tentatively scheduled for April 16.
- ZA-2023-006: A Type V code amendment package related to updates and clarifications in Title 17 – Land Division. The Planning Commission held a work session on November 14, 2023. A work session with the City Council has been scheduled for February 20 in advance of public hearings in April and May.



- CU-2023-003: A Type III application to establish a new vacation rental (conditional use) at 8821 SE 29<sup>th</sup> Ave was approved by the Planning Commission on January 23, 2024. The appeal period ended on February 8, 2024, without appeal.

**Land Use/Development Review**

- P-2024-001, TFR-2024-001: A Type II application for a parking modification for a 41-unit cottage cluster development at 9815-9833 SE 17<sup>th</sup> Ave. The request is to allow a parking ratio of 1.5 parking spaces per unit (rather than the maximum of 1 space per unit). The application was deemed complete. Referrals and public notices were sent on January 24. Comments were due by February 7. A large number of comments were submitted; the application is in review.

<sup>1</sup> Only land use applications requiring public notice are listed.

# BUILDING

<b>Permit data for</b>	<b>January</b>	<b>FY to Date:</b>
New single-family houses:	0	10
New ADU's	1	3
New Solar	5	47
Res. additions/alterations	8	36
Commercial new	0	2
Commercial Alterations	8	51
Demo's	0	2
Total Number of Permits issued:		826
(includes fire, electrical, mechanical, plumbing, and other structural)		
Total Number of Inspections:		2293
Total Number of active permits:		952

# ENGINEERING

## Capital Improvement Projects (CIP):

### **CIP 2018-A13 Washington Street Area Improvements**

Summary: This project combines elements of the SAFE, SSMP, Water, Stormwater, and Wastewater programs. SAFE improvements include upgrading and adding ADA compliant facilities along 27<sup>th</sup> Ave, Washington St, and Edison St. Street Surface Maintenance Program improvements are planned for Washington Street, 27<sup>th</sup> Avenue, and Edison Street. The Spring Creek culvert under Washington Street at 27<sup>th</sup> Avenue will be removed, and a new structure added. The water system along Washington Street will be upsized from a 6" mainline to an 8" mainline. The stormwater system along Washington Street will be upsized from 18" to 24" storm lines. The project is being designed by AKS Engineering and Forestry.

Update: Notice to Proceed to Landis and Landis should be issued soon. Waiting for project schedule which is delayed until receive a confirmed PRV material delivery date.

### **CIP 2016-Y11 Meek Street Storm Improvements**

Summary: Project was identified in the 2014 Stormwater Master Plan to reduce flooding within this water basin. The project was split into a South Phase and a North Phase due to complications in working with UPRR.

Update: Contractor is working with Rail Pros to get approval to start pipeline installation in the railroad right-a-way.

### **CIP 2022-W56 Harvey Street Improvements**

Summary: The project includes water improvements and stormwater improvements on Harvey Street from 32nd Avenue to the east end, on 42nd Avenue from Harvey Street to Johnson Creek Boulevard, 33rd Avenue north of Harvey Street, 36th Avenue north of Harvey Street, Sherry Street west of 36th Avenue, 41st Street north of Wake Court, and Wake Court. Sanitary sewer work will be done on 40th Avenue between Harvey Street to Drake Street. The project also includes the installation of an ADA compliant sidewalk on Harvey Street from 32nd Avenue to 42nd Avenue and 42nd Avenue from Harvey Street to Howe Street. Roadway paving will be done throughout the project area.

Update: Century West Engineering was contracted for the design in July 2023. The project is currently at 30% design. An Open-House occurred January 31st with mainly positive feedback and additional requests for 60% design.

### **CIP 2021-W61 Ardenwald North Improvements**

Summary: Project includes street repair on Van Water Street and Roswell Street with a shared street design for bicycles, pedestrians, and vehicles. Stormwater catch basins in the project boundary will be upgraded, the water system will be upsized on 29<sup>th</sup> Avenue, 30<sup>th</sup> Avenue, and 31<sup>st</sup> Avenue, and there will be wastewater improvements on 28<sup>th</sup> Avenue, 29<sup>th</sup> Avenue, and 31<sup>st</sup> Avenue to address multiple bellies and root intrusion to reduce debris buildup.

Update: Work is progressing on 100% design. Staff anticipates bidding the project this winter.

### **CIP 2022-A15 King Road Improvements**

Summary: King Road (43<sup>rd</sup> Avenue to city limits near Linwood Avenue) SAFE/SSMP Improvements will replace existing sidewalk and bike lane with a multi-use path, improve stormwater system, replace water pipe, and reconstruct roadway surface.

Update: Additional storm improvement scope was added to the project. Existing condition investigations have been conducted. A meeting is scheduled to discuss design options.

### **Waverly Heights Sewer Reconfiguration**

Summary: Waverly Heights Wastewater project was identified in the 2010 Wastewater System Master Plan. The project may replace approximately 2,500 feet of existing clay and concrete pipe.

Update: Authorization for the design contract with Stantec was approved by the Council on August 1, 2023. An engineering services agreement was executed with Stantec on Sept. 19, and the design effort was kicked off in early October of 2023. A flow monitoring program was initiated in October, and will continue through the wet season, concurrent with design. A public engagement plan was prepared in Fall of 2023, and a first set of informational material was mailed out to neighbors in the area in November, along with permit of entry forms. Stantec commenced with early site investigations in December of 2023 and will continue with 30 percent design through winter of 2024.

### **Monroe Street Greenway**

Summary: The Monroe Street Greenway will create a nearly four-mile, continuous, low-stress bikeway from downtown Milwaukie to the I-205 multi-use path. Once complete, it will serve as the spine of Milwaukie's active transportation network connecting users to the Max Orange Line, Max Green Line, Trolley Trail, 17<sup>th</sup> Avenue Bike Path, I-205 path, neighborhoods, schools, and parks. Funding grants through ODOT and Metro will allow the city to complete our 2.2-mile section of the Monroe Greenway from the Trolley Trail to Linwood Ave.

Update:

East Monroe Greenway (37<sup>th</sup> to Linwood): Staff have come to an agreement with ODOT and contracted CONSOR for the design. A Kick-off meeting has occurred and the site is being surveyed.

Monroe Street & 37th Avenue (34th to 37th): This segment is complete. It was constructed as part of the private development of the 7 Acres Apartments.

Western Monroe Greenway (Downtown to 34th): The city is working with ODOT to prepare an IGA that will transfer \$1.55 M in STIP funding to the city to manage this segment of the Monroe Street Greenway. City staff has contracted with 3J Consulting to negotiate work at the railroad crossings.

Monroe Street & Highway-224 Intersection: This project has now been combined with a larger project which will mill and overlay Highway-224 from Rusk Road to 17th Avenue. The city will design and replace the underlying water main by October 2024 and ODOT will proceed to construction in the Fiscal Year 2026. An Open-House is planned for February 29<sup>th</sup> for all of the Monroe Greenway, ODOT's Highway-224 project, and the City's TSP.

## **Kellogg Creek Restoration and Community Enhancement Project**

Summary: Project to remove the Kellogg Creek dam, replace the McLoughlin Blvd. bridge, improve fish passage, and restore the wetland and riparian area. City of Milwaukie staff are part of the project Leadership Team, Core Technical Team, and the Technical Advisory Committee. The Leadership Team and Core Technical Team both meet monthly. In addition to city staff, these groups include staff from North Clackamas Watershed Council (NCWC), Oregon Department of Transportation (ODOT), and American Rivers. The Technical Advisory Committee (TAC) for the Kellogg Creek Restoration & Community Enhancement Project involves all collaborative partners that include the Confederated Tribes of the Warm Springs Indian Reservation of Oregon, the Confederated Tribes of Grand Ronde, Clackamas Water Environment Services, Metro, North Clackamas Parks and Recreation District, Oregon Department of Environmental Quality, Oregon Department of Fish and Wildlife, Oregon Division of State Lands, the Native Fish Society, and the Natural Resources Office of Governor.

Update: ODOT project scope is still under review by Oregon Department of Justice. Request for Proposal (RFP) will be posted in Spring with construction still scheduled to begin in 2026.

Three small trees were removed from Kronberg Park in January and additional trees will be removed in the ODOT ROW. The tree removal was necessary for crane and barge access to the impoundment area for sediment sampling and geotechnical investigations that are scheduled for later this year.

### **Traffic / Parking Projects, Issues**

None.

### **Right-Of-Way (ROW) Permits (includes tree, use, construction, encroachment)**

Downtown Trees and Sidewalks

Update: Staff has a contract with AKS; working on what type of design works best now and in the future with both the trees and sidewalks & curbs.

### **Private Development – Public Improvement Projects (PIPS)**

Seven Acres Apartments (formerly Monroe Apartments) – 234 units

Update: We anticipate completion of all ROW improvements in summer 2023; Contractor is working on installing the main driveway on 37<sup>th</sup> Ave. (opposite from Washington Street) and ADA ramps on both sides of 37<sup>th</sup> Ave. at Washington Street. The developer has received a TCO for four buildings.

Henley Place (Kellogg Bowl redevelopment)- 175 units

Update: A Right-of-Way permit has been issued; construction of improvements is underway.

Walnut Addition Subdivision – 9 lot subdivision at Roswell St. & 33<sup>rd</sup> Ave.

Update: Most of the street work has been completed; construction is in the project correction phase.

Elk Rock Estates – 5 lot subdivision at 19<sup>th</sup> Ave & Sparrow St.

Update: Most of the street work has been completed; construction is in the project correction phase.

Shah & Tripp Estates – 8-lot subdivision at Harrison Street and Home Ave.

Update: Design plans are under review.

Jackson / 52<sup>nd</sup> – 5-unit development.

Update: Design plans are under review. Staff and developer have agreed on a development agreement to have the developer pave Jackson Street from Home to 52<sup>nd</sup> Ave. and be reimbursed for areas outside of their responsibility. Pre-construction meeting has concluded. Construction is anticipated to start this summer.

**Document Administration**

Master Plans

Summary: WSC is preparing the Stormwater System Plan.

**COUNCIL STAFF REPORT**

**To:** Mayor and City Council  
Ann Ober, City Manager

**Date Written:** Feb. 6, 2024

**Reviewed:** Laura Weigel, Planning Manager

**From:** Vera Kolias, Senior Planner

**Subject:** **Title 17 (Land Division) Code Amendments**

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**ACTION REQUESTED**

Council is asked to review the materials and provide feedback in advance of a future public hearing.

**HISTORY OF PRIOR ACTIONS AND DISCUSSIONS**

[November 14, 2023](#): The Planning Commission held a work session to discuss the proposed amendments.

**ANALYSIS**

Over the course of several years, planning department staff have tracked issues with current zoning code language and have made recommendations for amended language. These items have been identified through a variety of means, including:

- Questions about specific code language that have been raised by the public on multiple occasions and that are not easily answered,
- Changes in state law requiring amendments to local codes,
- Implementation of the comprehensive plan, and
- Code interpretation applications.

Over the past several months, planning staff have created categories for code amendment packages to help organize the various amendments and to help with the overall department workplan:

- **Large efforts** which will each be its own project – examples include: Willamette Greenway Overlay re-write (Milwaukie Municipal Code (MMC) 19.401); Natural Resources code re-write (MMC 19.402); Historic Preservation Overlay Zone (MMC 19.403).
- **Substantive code amendments** – an example includes a review/overhaul of Title 17 – Land Division.
- **Housekeeping** – these are amendments that are clarifications or minor tweaks that are not intended to affect meaning or intent of existing regulations. Housekeeping amendments are a way of cleaning up the code.

The current package of proposed **substantive** code amendments involves a comprehensive review and overhaul of Title 17 – Land Division. The city has periodically made small amendments to Title 17 but has not done a comprehensive review in many years. The proposed amendments affect nearly every section of Title 17, with the following objectives:

- Ensure that the code accurately reflects current state law,
- Include clear and objective standards,
- Remove redundant or confusing language,
- Clarify and simplify review processes to the benefit of both the applicant and staff, and
- Address recent legislation involving middle housing.

Because so much of the existing code language is affected, staff has elected to use a “repeal and replace” format for the amendments rather than the typical underline/strikeout method. This overhaul includes amendments that fall into the following basic categories of amendments (please refer to Attachments 1 and 2 for existing and proposed language, with more significant changes **highlighted**):

1. Formatting/redundant language

- **Revise and reorganize** this entire code section to eliminate needless “tables of contents”, section numbers for each term in various sections, and eliminate redundancies that can cause confusion when repeated in multiple sections. For example, the current code has a new subsection number for each term in the definitions; this is not necessary.
- **Reduce** the number of lists of specific items to be included on plans. These items are better identified on the required checklists rather than in the code because if anything is required to be added or revised, the checklist is more easily amended than the code. One particular exception to this is the requirements for middle housing land divisions because the required items are specifically identified in state law.
- **Reorganize** the language to provide a separate section just for middle housing and expedited land divisions (17.26). These types of land division have very specific requirements that are established in state law and are different from traditional land division proposals. Applicants and staff are better served by having this language stand on its own in a complete section rather than be inserted throughout the text for standard land division proposals.

2. Review process and application requirements

- **Rewrite** the section for each type of land division to include a description of the application process (17.12). The current code includes a chart that can be confusing about which land use review type applies and allows for a reduction in review type as applicable. By clearly identifying the land use review process for each land division type, staff propose to remove any uncertainty or discretion in how the code applies.
  - This rewrite includes removing Type III review for subdivisions and making it a Type II review. Regardless of the number of lots proposed, the standards for land division are clear and objective, making Type III review unnecessary.



- **Revise** language to clearly identify filing deadlines and that permits will not be accepted or issued until a final plat is recorded.

**Revise** the language related to extensions of expiring approvals to align the process with the existing extensions process identified in 19.908.

3. New language

- **Add** a new section for tracts and easements (17.24), which specifies requirements and management responsibilities when included in a land division proposal. These terms are defined in the existing code, but ownership and maintenance are not specified. This new language provides both staff and applicants with clear language for how they are to be handled in the future, minimizing conflict when the development is complete and homeowners or tenants change.
- **Add** a new section for remainder or left over land resulting from a partition (17.28.090). Staff has responded to several inquiries from the owners of larger properties where they would like to partition off the house and sell the remaining land to a developer. This new language includes requirements for such a partition which anticipates future development but restricts any permit review until minimum density is achieved. This helps to eliminate any future confusion about the ability to build only one large home on a large property.

**BUDGET IMPACT**

The Title 17 amendments project has been accounted for in the planning department budget.

**WORKLOAD IMPACT**

The Title 17 amendments project is included in the planning department work plan. Clarification and streamlining of code language will improve planning processes for both staff and the public.

**CLIMATE IMPACT**

The proposed amendments are clarifications and corrections to land division code language.

**COORDINATION, CONCURRENCE, OR DISSENT**

This effort has been led primarily by staff from the planning and community development departments.

**STAFF RECOMMENDATION**

Staff recommend advancing the proposed amendments to the public hearing and code adoption process.

**ALTERNATIVES**

None.

**ATTACHMENTS**

1. Existing code
2. Proposed code amendments (underline)

**Underline/Strikeout Amendments**

**TITLE 17**

**LAND DIVISION**

**Chapters:**

**17.04 Administration and Enforcement**

**17.08 Definitions**

**17.12 Application Procedure and Approval Criteria**

**17.16 Application Requirements and Procedures**

**17.20 Preliminary Plat**

**17.24 Final Plat**

**17.28 Design Standards**

**17.32 Improvements**

**17.44 Exceptions and Variances**

**CHAPTER 17.04**

**ADMINISTRATION AND ENFORCEMENT**

**Sections:**

- 17.04.010 Title and Structure
- 17.04.020 Authority
- 17.04.030 Consistency with Municipal Code
- 17.04.040 Approval Required
- 17.04.050 Time Limit on Approval
- 17.04.060 Reduction of Land Below Minimum Standards
- 17.04.070 Correction of Improper Land Division or Boundary Change
- 17.04.080 Form of Applications
- 17.04.090 Fees
- 17.04.100 Amendments
- 17.04.110 Determinations of Legal Status
- 17.04.120 Recording
- 17.04.130 Monumentation and Survey
- 17.04.140 Violation—Penalties
- 17.04.150 Appeals

**17.04.010 TITLE AND STRUCTURE**

A. Title

The ordinance codified in this title shall be known and may be cited as the “Land Division Ordinance” of the City of Milwaukie.

B. Structure

This title is divided into chapters and sections. Chapter divisions are denoted by the 2-digit number following the title number. Section divisions are identified by the 3-digit number following the chapter division. (Ord. 1907 (Attach. 1), 2002)

**17.04.020 AUTHORITY**

A. The Planning Director shall have the authority to apply, interpret, and enforce the provisions of this title. An appeal from a ruling by the Planning Director regarding a requirement of this title may be made to the Planning Commission under provisions of Chapter 19.1000.

B. The Engineering Director shall have the authority to accept, conditionally accept, or reject construction and engineering plans and specifications in accordance with professional judgment and accepted engineering or surveying practices. (Ord. 1907 (Attach. 1), 2002)

**17.04.030 CONSISTENCY WITH MUNICIPAL CODE**

All land divisions and property boundary changes shall be consistent with Title 16 Environment, this title, Title 18 Flood Hazard Regulations, and Title 19 Zoning. (Ord. 1907 (Attach. 1), 2002)

**17.04.040 APPROVAL REQUIRED**

All lot consolidations, land divisions, changes in property boundary lines, and creation of streets or rights-of-way shall be approved in accordance with these regulations prior to conveying or recording any instrument effecting a lot consolidation, land division, or property boundary change. A person desiring to partition, subdivide, replat, consolidate, or change property

boundaries shall submit application for approval as provided in this title and State law. (Ord. 1907 (Attach. 1), 2002)

**17.04.050 TIME LIMIT ON APPROVAL**

A. Expiration of Approval

All decisions on boundary changes and land divisions shall expire 1 year after the date of approval. Reactivation of expired decisions may only be made by submission of a new application and related fees.

B. Extensions

Approvals may be extended up to 6 months upon submission of formal request to the original decision-making authority. One extension of the approval period not to exceed 6 months will be granted provided that:

1. No changes are made on the original plan as approved;
2. The applicant can show intent of recording the land division or boundary change within the 6-month extension period; and
3. There have been no changes in the ordinance provisions on which the approval was based.

(Ord. 1907 (Attach. 1), 2002)

**17.04.060 REDUCTION OF LAND BELOW MINIMUM STANDARDS**

No unit of land shall be split or reduced by any means in conflict with the requirements of this title or Title 19 of this code. The splitting of a lot or parcel to add to another shall not be allowed unless the remaining portion meets all zoning standards for the zone where the land is located, or it is simultaneously consolidated with a contiguous parcel, which will thereafter comply with zoning standards. (Ord. 1907 (Attach. 1), 2002)

**17.04.070 CORRECTION OF IMPROPER LAND DIVISION OR BOUNDARY CHANGE**

Improper land divisions or boundary changes shall be corrected by submission of appropriate applications and by following the associated review procedures prescribed in this title. This

section shall not preclude enforcement against violations of this title. (Ord. 1907 (Attach. 1), 2002)

#### **17.04.080 FORM OF APPLICATIONS**

All applications provided for in this title shall be made on forms prescribed by the Planning Director. (Ord. 1907 (Attach. 1), 2002)

#### **17.04.090 FEES**

A fee as established by resolution of the City Council shall be paid to the City upon the filing of an application. Such fees shall not be refundable. (Ord. 1907 (Attach. 1), 2002)

#### **17.04.100 AMENDMENTS**

Legislative amendments to this title shall be made in accordance with Chapter 19.1000 and Section 19.902. (Ord. 2025 § 3, 2011; Ord. 1907 (Attach. 1), 2002)

#### **17.04.110 DETERMINATIONS OF LEGAL STATUS**

Requests for determinations on the legal status of units of land shall be processed pursuant to Section 19.903 Code Interpretations and Director Determinations. (Ord. 2025 § 3, 2011; Ord. 1907 (Attach. 1), 2002)

#### **17.04.120 RECORDING**

- A. Recording instruments for boundary change, subdivision, partition, and replat shall be submitted to the County Surveyor within 6 months of City approval.
- B. Prior to recording a lot consolidation, property line adjustment, subdivision, or partition plat or replat, the applicant shall submit the recording instruments to the Planning Director for a determination of consistency with the City Code and required approvals.
- C. Lot consolidations for units of land legally created by metes and bounds descriptions may be recorded by deed subject to approval of the County Surveyor.
- D. Subdivision and partition plats, and replats, must be recorded by plat.
- E. A copy of the recording instruments shall be submitted to the Planning Director Manager no later than 15 days after filing with the County Surveyor. (Ord. 1907 (Attach. 1), 2002)

#### **17.04.130 MONUMENTATION AND SURVEY**

- A. Monuments are required in accordance with ORS Chapter 92.

B. Monumentation surveys shall be filed with the County Surveyor in accordance with ORS Chapters 92 and 209. (Ord. 1907 (Attach. 1), 2002)

**17.04.140 VIOLATION—PENALTIES**

Violation of any provision of this title is a civil infraction. The civil penalty for violation of this title shall be \$200.00. The cost of completing or correcting any improvements required by this title and incurred by the City may be assessed to persons as part of the civil infraction judgment.

Each day a violation continues shall be considered a separate violation. (Ord. 1907 (Attach. 1), 2002)

**17.04.150 APPEALS**

Appeals on actions authorized under this title shall be made in accordance with Chapter 19.1000. (Ord. 1907 (Attach. 1), 2002)

**CHAPTER 17.08**

**DEFINITIONS**

Sections:

17.08.010 Generally

17.08.020 Applicant

17.08.030 Approval Authority

17.08.040 Bicycle Way

17.08.050 Block

17.08.060 Boundary Change

17.08.070 Buffer Strips

17.08.080 Building Line

17.08.090 City

17.08.100 Comprehensive Plan

17.08.110 Easement

17.08.120 Flag Lot

17.08.130 Land Division

17.08.140 Lot



- 17.08.150 Lot Consolidation
- 17.08.160 Monument
- 17.08.170 Owner
- 17.08.180 Parcel
- 17.08.190 Partition
- 17.08.200 Partitioning
- 17.08.210 Pedestrian Way
- 17.08.220 Person
- 17.08.230 Plat
- 17.08.240 Property Line Adjustment
- 17.08.250 Replat
- 17.08.260 Access Control Strip
- 17.08.270 Right-of-Way
- 17.08.280 Sidewalk
- 17.08.290 Street
- 17.08.300 Subdivide Land
- 17.08.310 Subdivision
- 17.08.320 Tract
- 17.08.330 (Repealed by Ord. 2003)
- 17.08.340 Unit of Land

**17.08.010 GENERALLY**

The words and phrases used in this title have the meanings provided in this chapter. (Ord. 1907 (Attach. 1), 2002)

**17.08.020 APPLICANT**

“Applicant” means the person who has filed application for land use action, or who has requested a Director’s determination, or other action requiring a response from the City. (Ord. 1907 (Attach. 1), 2002)

**17.08.030 APPROVAL AUTHORITY**

“Approval authority” means the individual or governmental body authorized by this code to take action on applications for actions specified in this title. (Ord. 1907 (Attach. 1), 2002)

**17.08.040 BICYCLE WAY**

“Bicycle way” means a right-of-way for bicyclists. (Ord. 1907 (Attach. 1), 2002)

**17.08.050 BLOCK**

“Block” means a group of lots, tracts, or parcels which have been subdivided and are entirely surrounded by highways or streets or in part by a well-defined and fixed boundary. (Ord. 1907 (Attach. 1), 2002)

**17.08.060 BOUNDARY CHANGE**

“Boundary change” means the relocation a property line established by dedication, deed, property line adjustment, lot consolidation, partition, subdivision, and/or replat. (Ord. 1907 (Attach. 1), 2002)

**17.08.070 BUFFER STRIPS**

“Buffer strip” means a strip of land of sufficient width to serve as a buffer between dissimilar use districts, existing in a natural or landscaped condition, and located along the edge of a subdivision. (Ord. 1907 (Attach. 1), 2002)

**17.08.080 BUILDING LINE**

“Building line” means a line on a plat or otherwise described indicating the limit beyond which buildings or structures may not be erected. (Ord. 1907 (Attach. 1), 2002)

**17.08.090 CITY**

“City” means the City of Milwaukie, Oregon. (Ord. 1907 (Attach. 1), 2002)

**17.08.100 COMPREHENSIVE PLAN**

“Comprehensive Plan” means the plan adopted by the City Council for the guidance of growth and improvement of the City, including modifications or refinements, which may be made from time to time. (Ord. 1907 (Attach. 1), 2002)

**17.08.110 EASEMENT**

“Easement” means the right to use land in a limited way for a stated purpose. (Ord. 1907 (Attach. 1), 2002)

**17.08.120 FLAG LOT**

“Flag lot” means a lot that has a narrow frontage on a public street with access provided via a narrow accessway to the main part of the lot used for building, which is located behind another lot that has normal street frontage. There are 2 distinct parts to the flag lot: the development area, which comprises the actual building site, and the accessway, which provides access from the lot interior to the street. (Ord. 1907 (Attach. 1), 2002)

**17.08.130 LAND DIVISION**

“Land division” means the division of land by partition, subdivision, or replat. (Ord. 1907 (Attach. 1), 2002)

**17.08.140 LOT**

“Lot” means a single unit of land that is created by a subdivision of land. (Ord. 1907 (Attach. 1), 2002).

**17.08.150 LOT CONSOLIDATION**

“Lot consolidation” means the elimination of a common property line between 2 or more units of land to form 1 unit of land. (Ord. 1907 (Attach. 1), 2002)

**17.08.160 MONUMENT**

“Monument” means a fixed, permanent, and visible landmark indicating boundaries. (Ord. 1907 (Attach. 1), 2002)

**17.08.170 OWNER**

“Owner” means the owner of record of real property as shown on the latest tax rolls of Clackamas County, or by the deed records of said County, or a person who is purchasing a parcel of property under contract. (Ord. 1907 (Attach. 1), 2002)

**17.08.180 PARCEL**

“Parcel” means a single unit of land that is created by a partitioning of land. (Ord. 1907 (Attach. 1), 2002)

**17.08.190 PARTITION**

“Partition” means either the act of partitioning land or an area of land partitioned. (Ord. 1907 (Attach. 1), 2002)

**17.08.200 PARTITIONING**

“Partitioning” means to divide an area of land into 2 or 3 parcels within a calendar year but does not include the following:

- A. A division of land resulting from a lien foreclosure, foreclosure of a recorded contract for the sale of real property, or the creation of cemetery lots;
- B. An adjustment of a property line by the 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 applicable zoning;
- C. The division of land resulting from the recording of a subdivision or condominium plat;
- D. A 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 comprehensive plan and ORS 215.213 (2)(p) to (r) and 215.283 (2)(q) to (s). However, any property divided by the sale or grant of property for State highway, County road, City street

or other right-of-way purposes shall continue to be considered a single unit of land until such time as the property is further subdivided or partitioned; or

E. A sale or grant by a public agency or public body of excess property resulting from the acquisition of land by the State, a political subdivision or special district for highways, County roads, City streets or other right-of-way purposes when the sale or grant is part of a property line adjustment incorporating the excess right-of-way into adjacent property. The property line adjustment shall be approved or disapproved by the applicable local government. If the property

line adjustment is approved, it shall be recorded in the deed records of the County where the property is located. (Ord. 1907 (Attach. 1), 2002)

**17.08.210 PEDESTRIAN WAY**

“Pedestrian way” means a right-of-way for pedestrians that is improved or unimproved. (Ord. 1907 (Attach. 1), 2002)

**17.08.220 PERSON**

“Person” means an individual, firm, partnership, corporation, company, association, syndicate, or any legal entity, and including any trustee, receiver, assignee, or other similar representative thereof. (Ord. 1907 (Attach. 1), 2002)

**17.08.230 PLAT**

“Plat” means and includes a map and other writing containing all the descriptions, locations, dedications, specifications, provisions, and information concerning a partition or subdivision. (Ord. 1907 (Attach. 1), 2002)

**17.08.240 PROPERTY LINE ADJUSTMENT**

“Property line adjustment” means the relocation of a common property line between 2 abutting units of land that does not result in the creation of a new unit of land. (Ord. 1907 (Attach. 1), 2002)

**17.08.250 REPLAT**

“Replat” means the act of platting the lots, parcels, and easements in a recorded subdivision or partition plat to achieve a reconfiguration of the existing subdivision or partition plat including an increase or decrease in the number of lots. (Ord. 1907 (Attach. 1), 2002)

**17.08.260 ACCESS CONTROL STRIP**

“Access control strip” means a strip of land reserved between the end or side of a street, or of land between a dedicated street of less than full width and an abutting parcel of land, held for access control, future street extension, or widening. (Ord. 1907 (Attach. 1), 2002)

**17.08.270 RIGHT-OF-WAY**

“Right-of-way” means the area between boundary lines of a public way. (Ord. 1907 (Attach. 1), 2002)

**17.08.280 SIDEWALK**

“Sidewalk” means a pedestrian walkway with permanent surfacing to City standards. (Ord. 1907 (Attach. 1), 2002)

**17.08.290 STREET**

“Street” means the width between the boundary lines of every way that provides for public use for the purpose of vehicular and pedestrian traffic and the placement of utilities. “Street” includes the terms “road,” “highway,” “lane,” “place,” “avenue,” “boulevard,” or other similar designations.

- A. “Access street” means a street intended only for access to abutting properties.
- B. “Alley” means a narrow street used for access to the back or side of properties otherwise abutting on another street.
- C. “Major arterial street” means a street that carries both local and through traffic to destinations outside the local community. The major arterial provides access to other communities as well as access through Milwaukie. Public transit to other communities generally use a major arterial.
- D. “Minor arterial street” means a street that carries local traffic between neighborhood areas or to regional facilities. The minor arterial provides access from neighborhood collector streets to community services and to alley and an abutting parcel of land, or a strip other neighborhoods within, or immediately adjacent to the City. Local public transit may use minor arterial streets.
- E. “Collector street” means a street that serves internal traffic within areas having a single land use pattern. The collector streets carry local traffic within a neighborhood area. They carry

traffic from the local streets to the minor and/or major arterial network or to schools, local shopping centers, or other local streets within the neighborhood.

F. "Cul-de-sac" means a short access street terminated by a vehicle turnaround.

G. "Dead-end street" means a street terminating at a property line, but which may be extended.

H. "Frontage street" means an access street parallel and adjacent to a major arterial street providing access to abutting properties, but protected from through traffic.

I. "Local street" means a street that provides direct access to abutting property. (Ord. 1907 (Attach. 1), 2002)

#### **17.08.300 SUBDIVIDE LAND**

"Subdivide land" means to divide an area or tract of land into 4 or more lots (Ord. 1907 (Attach. 1), 2002)

#### **17.08.310 SUBDIVISION**

"Subdivision" means either an act of subdividing land or a tract of land subdivided as defined in this title. (Ord. 1907 (Attach. 1), 2002)

#### **17.08.320 TRACT**

"Tract" means a unit of land other than a lot or parcel. (Ord. 1907 (Attach. 1), 2002)

#### **17.08.330 (Repealed by Ord. 2003)**

#### **17.08.340 UNIT OF LAND**

"Unit of land" means a legally created lot, parcel, or other unit of real property legally created by metes and bounds description or other legal means that is recorded on the County land records (Ord. 1907 (Attach. 1), 2002)

### **CHAPTER 17.12**

#### **APPLICATION PROCEDURE AND APPROVAL CRITERIA**



Sections:

17.12.010 Purpose

17.12.020 Application Procedure

17.12.030 Approval Criteria for Lot Consolidation, Property Line Adjustment, and Replat

17.12.040 Approval Criteria for Preliminary Plat

17.12.050 Approval Criteria for Final Plat

### **17.12.010 PURPOSE**

The purpose of this chapter is to specify the process and procedures for lot consolidation, property line adjustment, partition, subdivision, and replat. (Ord. 1907 (Attach. 1), 2002)

### **17.12.020 APPLICATION PROCEDURE**

A. Applications for land division and property boundary changes shall be processed in accordance with Chapter 19.1000 Type I, Type II, and Type III procedures as indicated in this section.

B. Applications for property boundary changes shall be processed in accordance with Table 17.12.020 based on the type of change requested. The Planning Manager may modify the procedures identified in Table 17.12.020 as follows:

1. Type III review may be changed to Type II review, or a Type II review may be changed to a Type I review, upon finding the following:
  - a. The proposal is consistent with applicable standards and criteria;
  - b. The proposal is consistent with the basis and findings of the original approval;  
and
  - c. The proposal does not increase the number of lots.
2. Type III review may be required in the following situations:
  - a. When the Planning Commission approved the original land use action; and
  - b. The proposed change is inconsistent with the original approval.

<b>Table 17.12.020 Boundary Change Review Procedures</b>			
<b>Boundary Change Action</b>	<b>Type I</b>	<b>Type II</b>	<b>Type III</b>
<b>1. Lot Consolidation Other Than Replat</b>			
a. Legal lots created by deed.	X		
<b>2. Property Line Adjustment</b>			
a. Any adjustment that is consistent with the ORS and this title.	X		
b. Any adjustment that modifies a plat restriction.		X	
<b>3. Partition Replat</b>			
a. Any modification to a plat that was decided by the Planning Commission.			X
<b>Table 17.12.020 CONTINUED Boundary Change Review Procedures</b>			
<b>Boundary Change Action</b>	<b>Type I</b>	<b>Type II</b>	<b>Type III</b>
b. Parcel consolidation.	X		
c. Actions not described in 3(a) or (b).		X	
<b>4. Subdivision Replat</b>			
a. Any modification to a plat affecting 4 or more lots.			X
<b>5. Expedited and Middle Housing Land Division</b>			
a. Any land division as defined by ORS 197.360 Expedited Land Division and/or land division of a middle housing project per ORS 197.758.		X	

C. An increase in the number of lots within the original boundaries of a partition plat shall be reviewed as a subdivision when the number of existing lots that are to be modified combined with the number of proposed new lots exceeds 3.

D. Partitions

1. Applications for preliminary partition plat shall be processed in accordance with Section 19.1005 Type II Review. Should any associated application subject to Type III review be submitted in conjunction with a partition, the partition application shall be processed according to Section 19.1006 Type III Review.

2. Full compliance with all requirements for subdivision may be required if the Planning Commission should determine that the entire parcel being partitioned is in the process of being divided for the purpose of subdivision. This provision applies if the land to be partitioned exceeds 2 acres and within a year is being partitioned into more than 2 parcels, any one of which is less than 1 acre.

E. Subdivisions

Applications for subdivision preliminary plat applications shall be processed in accordance with Section 19.1006 Type III Review, except that subdivision applications that meet the approval criteria for middle housing or expedited land divisions may be processed pursuant to Subsection 17.12.020.G and Subsection 17.12.020.H respectively.

F. Final Plats

Applications for final plats of partitions and subdivisions shall be processed in accordance with Section 19.1004 Type I Review.

G. Middle Housing Land Divisions

1. A middle housing land division is a partition or subdivision of a lot or parcel 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. Following the land division, the units of land created in a middle housing land division will be collectively considered a single lot along with the parent lot for all but platting and property transfer purposes under city code and state rules and statutes, including:

- a. Lot standards such as size, setback, lot coverage, and lot width and depth;
- b. Definition of unit types (e.g. a detached quadplex development where each unit is on its own lot through a middle housing land division would still be considered a detached quadplex development rather than single detached units);
- c. Allowed number of dwelling units and accessory dwelling units; and
- d. Compliance with middle housing rules and statutes in ORS 197 and OAR 660-046.

2. Applications for any land division affecting middle housing as provided in ORS 197.758(2) must be processed as an expedited land division process as outlined in ORS 197.360 to 197.380. Pursuant to the expedited land division process, a middle housing land division will be processed according to Section 19.1005 Type II Review. Further division of the resulting lots or parcels in an approved middle housing land division is prohibited.

H. Expedited Land Division

Expedited land divisions are defined by ORS 197.360(1) and are processed according to Section 19.1005, Type II Review. The expedited land division/middle housing land division review process provides for review by the Planning Manager of an application based on provisions specified in this land use code. The application process includes notice to nearby occupants and property owners to allow for public comments prior to the Planning Manager's decision. Eligibility and

approval criteria are detailed in Subsection 17.12.040.A.7 of this chapter. (Ord. 2219 § 2 (Exh. B), 2022; Ord. 2168 § 2, 2019; Ord. 2025 § 3, 2011; Ord. 2001 § 2, 2009; amended during Supp. No. 2; Ord. 1907 (Attach. 1), 2002)

**17.12.030 APPROVAL CRITERIA FOR LOT CONSOLIDATION, PROPERTY LINE ADJUSTMENT, AND REPLAT**

A. Approval Criteria

The approval authority may approve, approve with conditions, or deny a lot consolidation, property line adjustment, and/or replat based on the following approval criteria. The applicant for a lot consolidation, property line adjustment, or replat shall demonstrate the following:

1. Compliance with this title and Title 19 of this code.
2. The boundary change will allow reasonable development of the affected lots and will not create the need for a variance of any land division or zoning standard.
3. Boundary changes shall not reduce residential density below minimum density requirements of the zoning district in which the property is located. (Ord. 1907 (Attach. 1), 2002)

**17.12.040 APPROVAL CRITERIA FOR PRELIMINARY PLAT**

A. Approval Criteria

The approval authority may approve, approve with conditions, or deny a preliminary plat based on the following approval criteria:

1. The proposed preliminary plat complies with Title 19 of this code and other applicable ordinances, regulations, and design standards, including Chapter 16.32 Tree Code.
2. The proposed division will allow reasonable development and will not create the need for a variance of any land division or zoning standard.
3. The proposed subdivision plat name is not duplicative and the plat otherwise satisfies the provisions of ORS 92.090(1).
4. The streets and roads are laid out so as to conform to the plats of subdivisions already approved for adjoining property as to width, general direction, and in all other respects unless the City determines it is in the public interest to modify the street or road pattern.

5. A detailed narrative description demonstrating how the proposal conforms to all applicable code sections and design standards.
6. Approval of a preliminary plat for a middle housing land division will be granted if the Planning Manager 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 MMC middle housing regulations. To demonstrate compliance with this criterion, the applicant must submit approved building permits or concurrent building permits demonstrating that existing or proposed structures comply with the Oregon Residential Specialty Code and MMC middle housing regulations in Titles 12 and 19.
  - b. The middle housing development is in compliance with the land use regulations applicable to the parent lot allowed under ORS 197.758(5).
  - c. Separate utility service connections for public water, sewer, and stormwater will be provided for each dwelling unit.
  - d. Easements will be provided as necessary for each dwelling unit on the site for:
    - (1) Locating, accessing, replacing, and servicing all utilities;
    - (2) Pedestrian access from each dwelling unit to a private or public road;
    - (3) Any common use areas or shared building elements;
    - (4) Any dedicated driveways or parking; and
    - (5) Any dedicated common area.
  - e. Exactly one dwelling unit will be located on each resulting lot except for lots or tracts used as common areas, on which no dwelling units will be permitted.
  - f. Buildings or structures on a resulting lot will comply with applicable building codes provisions relating to new property lines.
  - g. Structures or buildings located on the newly created lots will comply with the Oregon Residential Specialty Code.
  - h. Where a resulting 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 Chapter 19.700.

- i. The proposed middle housing land division will not cause any existing improvements on the middle housing lots to be inconsistent with applicable standards in this land use code.
7. If an applicant elects to use the expedited land division procedure, the application must meet the following additional approval criteria:
- a. The proposed partition only includes land zoned for residential uses;
  - b. The parcels created will only be developed for residential use, including recreational or open space accessory to residential use;
  - c. The land division satisfies minimum street or other right-of-way connectivity standards established by the City's Transportation System Plan, Public Works Standards, and Chapter 19.700;
  - d. 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:
    - (1) Open spaces, mapped historic properties as identified on Map 3 on the comprehensive plan, and mapped natural resources as regulated by Section 19.402; or
    - (2) The Willamette River Greenway as regulated by Section 19.401.
  - e. The land division will result in development that either:
    - (1) Creates enough lots or parcels to allow building residential units at 80% or more of the maximum net density permitted by the zoning designation of the site; or
    - (2) Will be sold or rented to households with incomes below 120% of the median family income for Clackamas County.

**B. Conditions of Approval**

The approval authority may attach such conditions as are necessary to carry out the applicable ordinances and regulations and may require access control strips be granted to the City for the purpose of controlling access to adjoining undeveloped properties.

- 1. The City will attach conditions of approval of a preliminary plat for a middle housing land division to:

- a. Require that a notation appear on the final plat indicating:
  - (1) The middle housing lots shown on the tentative plan were created pursuant to a middle housing land division and may not be further divided.
  - (2) The middle housing developed on the middle housing lots shown on the preliminary plat shall remain middle housing and shall not be considered to be any other housing type as a result of the middle housing land division.
  - (3) Accessory dwelling units are not permitted on new lots resulting from a middle housing land division.
  - (4) Ensure that improvements associated with review criteria in this section are provided.
  
- b. The preliminary plat approval of a middle housing land division is void if and only if a final middle housing land division plat is not approved within 3 years of the tentative approval. (Ord. 2219 § 2 (Exh. B), 2022; Ord. 1965 §§ 6, 7, 2006; Ord. 1907 (Attach. 1), 2002)

**17.12.050 APPROVAL CRITERIA FOR FINAL PLAT**

Following the Type I procedure, the Planning Director and the Engineering Director shall review the final plat and shall approve or deny the final plat based on findings of compliance with the following:

- A. The final plat complies with the preliminary plat approved by the approval authority and all conditions of approval have been satisfied.
  
- B. The preliminary plat has not lapsed.
  
- C. The streets and roads for public use are dedicated without reservation or restriction other than revisionary rights upon vacation of any such street or road and easements for public utilities.
  
- D. The plat contains a donation to the public of all common improvements, including but not limited to streets, roads, parks, sewage disposal, and water supply systems.
  
- E. All common improvements required as conditions of approval have been described and referenced on the plat, and where appropriate, instruments to be recorded have been submitted.
  
- F. The plat complies with the Zoning Ordinance and other applicable ordinances and regulations.

G. Submission of signed deeds when access control strips are shown on the plat.

H. The plat contains an affidavit by the land surveyor who surveyed that the land represented on the plat was correctly surveyed and marked with proper monuments as provided by ORS Chapter 92.060, and indicating the initial point of the survey, and giving the dimensions and kind of such monument, and its reference to some corner established by the U.S. Survey or giving 2 or more objects for identifying its location. (Ord. 1907 (Attach. 1), 2002)

### **17.16.010 APPLICATION REQUIRED**

Application submissions for lot consolidation, property line adjustment, partition, subdivision, and replat shall be made in accordance with provisions of this chapter. (Ord. 1907 (Attach. 1), 2002)

### **17.16.020 DETERMINATION OF COMPLETENESS**

A. Consistency with Submission Requirements

The Planning Director shall review applications for consistency with submission requirements of this chapter. Application submissions that do not meet the requirements of this chapter shall be deemed incomplete for the purpose of ORS 227.178 and Chapter 19.1000. The Planning Director shall provide to the applicant notice of whether an application is complete or incomplete in accordance with ORS 227.178 and Subsection 19.1003.3.

B. Time Allowed to Complete Submission

If the Planning Director finds that the application submission is not complete, the applicant has 15 calendar days from the date of the Director's notice to provide the missing information. If the missing information is not provided within 15 days, the application shall be rejected. Rejection of an incomplete application does not constitute a land use action.

C. Reactivation of rejected applications may only be made by new submission of a complete application and fee. (Ord. 2025 § 3, 2011; Ord. 1907 (Attach. 1), 2002)

### **17.16.030 WAIVER OF SUBMISSION REQUIREMENTS**

A. Certain application submission requirements may be waived at the discretion of the Planning Director subject to meeting the following conditions:



1. The applicant shows good cause for the requested waiver;
  2. The waiver does not compromise a proper and complete review; and
  3. The information is not material to describing the proposal or demonstrating compliance with approval criteria.
- B. Application submission requirements that may not be waived include:
1. Signed and completed application form, submission requirements form, and plan checklist;
  2. Property owner's authorization for application to be made;
  3. Detailed narrative description that specifies how the proposal complies with applicable codes; and
  4. Required plans, maps, and drawings.
- C. Application fees may only be waived by action of the City Council. (Ord. 1907 (Attach. 1), 2002)

#### **17.16.040 LOT CONSOLIDATION AND PROPERTY LINE ADJUSTMENT**

The following shall accompany applications for lot consolidation and property line adjustments:

- A. Completed application forms signed by all owners of property included in the proposal;
- B. Application fee as adopted by the City Council;
- C. Narrative report that describes how the proposal meets approval criteria;
- D. Additional information as may be required by the application check list; and
- E. A plan drawn to scale showing the following details:
  1. Scale, north arrow, and date of map;
  2. Tax map and lot number identifying each property involved in the application;
  3. Adjacent rights-of-way, with width shown;
  4. Location, width, and purpose of any recorded easements and/or plat restrictions;

5. Proposed property lines and dimensions of the affected lots;
6. The area of each lot;
7. Location of existing structures to remain and proposed structures, if any, with setbacks shown to all existing and proposed lot lines; and
8. Deeds of the properties involved. (Ord. 2229 § 2, 2023; Ord. 1907 (Attach. 1), 2002)

**17.16.050 REPLAT**

The following shall accompany applications for a replat:

- A. Completed application form signed by all owners of property included in the proposal;
- B. The application fee as adopted by the City Council;
- C. A narrative report that describes how the proposal meets approval criteria;
- D. Additional information as may be required by the application checklist; and
- E. Additional information including full submission requirements for preliminary plat as may be required by the Planning Director upon review of the proposal. (Ord. 1907 (Attach. 1), 2002)

**17.16.060 PRELIMINARY PLAT FOR PARTITION AND SUBDIVISION**

The following shall accompany applications for partition:

- A. Completed application form signed by all owners of property included in the proposal;
- B. Application fee as adopted by the City Council;
- C. Completed and signed “submission requirements” and “partition checklist” or “subdivision checklist” forms as appropriate;
- D. All information specified on the “submission requirements” and “partition checklist” or “subdivision checklist” forms as appropriate;
- E. Requirements and information specified in Chapter 17.20; and
- F. Any additional information as may be needed to demonstrate compliance with approval criteria. (Ord. 1907 (Attach. 1), 2002)

**17.16.070 FINAL PLAT FOR PARTITION AND SUBDIVISION**

The following shall accompany applications for partition:

- A. A completed application form signed by all owners of property included in the proposal;
- B. The application fee as adopted by the City Council;
- C. Completed and signed “submission requirements” and “final plat checklist” forms;
- D. All information specified on the “submission requirements” and “final plat checklist”;
- E. A survey prepared by registered land surveyor showing setbacks to existing structures with sufficient detail to demonstrate compliance with yard requirements;
- F. Requirements and information specified in Chapter 17.24; and
- G. Any additional information as may be needed to demonstrate compliance with approval criteria. (Ord. 1907 (Attach. 1), 2002)

**17.16.080 COTTAGE CLUSTER DEVELOPMENT**

An application for subdivision preliminary plat or replat to create a cottage cluster housing development shall include narrative and plans with sufficient detail to demonstrate compliance with the standards of Subsection 19.505.4. (Ord. 2051 § 2, 2012)

## **CHAPTER 17.20**

### **PRELIMINARY PLAT**

Sections:

17.20.010 Submission of Plans

17.20.020 Scale

17.20.030 General Information to be Shown on the Preliminary Plat

17.20.040 Building Lines Prohibited

17.20.050 Existing Conditions

17.20.060 Proposed Conditions

#### **17.20.010 SUBMISSION OF PLANS**

Applicants for partition, subdivision, expedited land division, middle housing land division, and replat shall prepare a preliminary plat and such improvement plans and other supplemental material including as may be required to describe and represent the objectives of the proposal. (Ord. 2219 § 2 (Exh. B), 2022; Ord. 1907 (Attach. 1), 2002)

#### **17.20.020 SCALE**

The preliminary plat shall be drawn at a scale and on a sheet size that reliably and conveniently represents design details sufficient for the proper plan review and determination of compliance with this title. (Ord. 1907 (Attach. 1), 2002)

#### **17.20.030 GENERAL INFORMATION TO BE SHOWN ON THE PRELIMINARY PLAT**

- A. Preliminary plats shall be prepared by an Oregon registered land surveyor.
- B. The following general information shall be submitted with the preliminary plat:
  - 1. Proposed name of the subdivision/partition. The name shall not duplicate nor resemble the name of another subdivision in the county. Subdivision names shall be approved by the County Surveyor in accordance with ORS Chapter 92;

2. Date, north point, and scale of drawing;
3. Appropriate identification clearly stating the map is a preliminary plat;
4. Location by section, township, and range; and a legal description sufficient to define the location and boundaries of the area to be divided;
5. Names and addresses of the owner, subdivider, and engineer or surveyor;
6. Acreage;
7. Structures and yard setbacks;
8. The location, width, and purpose of easements;
9. The location, approximate dimensions, and area of all lots;
10. Lot and block numbers; and
11. Other information as maybe specified on application forms and checklists prescribed by the Planning Director.

C. Vicinity map shall be drawn at an appropriate scale, showing all existing subdivisions, streets, and unsubdivided land between the proposed subdivision and the nearest existing arterial or collector streets, and showing how proposed streets may be extended to connect with existing streets. At a minimum, the vicinity map shall depict future street connections for land within 400 feet of the subject property. (Ord. 1907 (Attach. 1), 2002)

#### **17.20.040 BUILDING LINES PROHIBITED**

Platted building lines are prohibited. The effect of building lines may be executed through recordation of instruments, which shall be referenced on the recorded plat. (Ord. 1907 (Attach. 1), 2002)

#### **17.20.050 EXISTING CONDITIONS**

The following shall be shown on the preliminary plat:

A. Location, width, and names of all existing or platted streets within or adjacent to the tract, together with easements, railroad right-of-way, and other important features, such as section lines and corners, City boundary lines, and monuments.

- B. Contour lines related to an established benchmark or other datum approved by the Engineering Director, with intervals at a minimum of 2 feet for slopes up to 10% and 5 feet for slopes over 10%.
- C. Location within the area to be divided, and in the adjoining streets and property, of existing sewers, water mains, culverts, storm drain system, and electric conduits or lines proposed to service the property to be subdivided, and invert elevations of sewer manholes, drain pipes, and culverts.
- D. Zoning and existing uses within the tract and 200 feet on all sides, including the location and use of all existing structures indicating those that will remain and those to be removed.
- E. Approximate location of areas subject to inundation or stormwater overflow with approximate high-water elevation. Location, width, direction, and flow of all watercourses on or abutting the tract including wetlands and watercourses as shown on City-adopted natural resource and Title 3 maps.
- F. Natural features such as rock outcroppings, drainages whether seasonal or perennial, wooded areas, and isolated trees, including type and caliper.
- G. Floodway and floodplain boundary.
- H. Areas containing slopes of 25% or greater. (Ord. 1907 (Attach. 1), 2002)

#### **17.20.060 PROPOSED CONDITIONS**

- A. The plat shall include the following information:
  - 1. Date, north point, scale, address, assessor reference number, and legal description;
  - 2. Name and address of the record owner or owners and of the person who prepared the site plan;
  - 3. Approximate acreage and square feet under a single ownership, or if more than one ownership is involved, the total contiguous acreage of all landowners directly involved in the partition;
  - 4. For land adjacent to and within the area to be divided, the locations, names, and existing widths of all streets, driveways, public safety accesses, easements, and rights-of-way; location, width, and purpose of all other existing easements; and location and size of sewer and waterlines, drainage ways, power poles, and other utilities;
  - 5. Location of existing structures, identifying those to remain in place and those to be removed;

6. Lot design and layout, showing proposed setbacks, landscaping, buffers, driveways, lot sizes, and relationship to existing or proposed streets and utility easements;
7. Existing development and natural features for the site and adjacent properties, including those properties within 100 feet of the proposal, showing buildings, mature trees as required in Chapter 16.32, topography, and other structures;
8. Elevation and location of flood hazard boundaries;
9. The location, width, name, and approximate centerline grade and curve radii of all streets; the relationship of all streets to any projected streets planned by the City; whether roads will continue beyond the plat; and existing and proposed grade profiles. No street name may be used which will duplicate or be confused with the name of an existing street, except for extensions of existing streets. Street names and numbers shall conform to the established pattern in the surrounding area.
10. For middle housing land divisions, in addition to the items in Subsection 17.20.060.A, the following must be provided and shown on the preliminary plat:
  - a. Separate utility connections for each dwelling unit;
  - b. Proposed easements necessary for each dwelling unit on the plan for:
    - (1) Locating, accessing, replacing and servicing all utilities;
    - (2) Pedestrian access from each dwelling unit to a private or public road;
    - (3) Any common use areas or shared building elements;
    - (4) Any dedicated driveways or parking; and
    - (5) Any dedicated common area.
  - c. Copies of all required easements in a form approved by the City Attorney.
  - d. A description of the manner in which the proposed division complies with each of the provisions of Subsection 17.12.040.A.6 including copies of approved building permits, or concurrent building permits, and other evidence necessary to demonstrate:
    - (1) How buildings or structures on a resulting lot will comply with applicable building codes provisions related to new property lines; and
    - (2) Notwithstanding the creation of new lots, how structures or buildings located on the newly created lots will comply with the Oregon Residential Specialty Code.

- B. A conceptual plan shall be provided for complete subdivision or partitioning of the property, as well as any adjacent vacant or underutilized properties, so that access issues may be addressed in a comprehensive manner. The concept plan shall include documentation that all options for access have been investigated including shared driveways, pedestrian accessways, and new street development.
- C. A detailed narrative description demonstrating how the proposal meets all applicable provisions of this title, Title 19, Chapter 16.32, and City design standards, including the Public Works Standards.
- D. Plans and drawings as necessary to demonstrate compliance with all applicable provisions of chapters of this title, Title 19, Chapter 16.32, and City design standards, including the Public Works Standards.
- E. A drainage summary report and plan prepared in accordance with the applicable Public Works Standards.
- F. Proposed deed restrictions, if any, in outline form.
- G. Improvements to be made by the developer and the approximate time such improvements are to be completed. Sufficient detail regarding proposed improvements shall be submitted so that they may be checked for compliance with the objectives of this title, state law, and other applicable City ordinances. If the nature of the improvements is such that it is impractical to prepare all necessary details prior to approval of the preliminary plat, the additional details shall be submitted with the request for final plat approval. (Ord. 2219 § 2 (Exh. B), 2022; Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)



**CHAPTER 17.24**

**FINAL PLAT**

Sections:

17.24.010 Required Plat Information

17.24.020 Additional Required Information

17.24.030 Approval of Final Plat

17.24.040 Filing

17.24.050 Notice for Improvements

17.24.060 Bond

**17.24.010 REQUIRED PLAT INFORMATION**

In addition to that otherwise specified by law, the following information shall be shown on the final plat:

- A. The date, scale, north point, legend, plat boundary, and controlling topography such as creeks and highways;
- B. Legal description of the tract boundaries;
- C. Name of the owner(s), applicant(s), and surveyor.
- D. Reference points of existing surveys identified, related to the plat by distances and bearings, and referenced to a field book or map as follows:
  - 1. Stakes, monuments, or other evidence found on the ground and used to determine the boundaries of the subdivision;
  - 2. Adjoining corners of adjoining subdivisions;
  - 3. Other monuments found or established in making the survey of the subdivision or required to be installed by provision of this title.

E. The exact location and width of streets and easements intersecting the boundary of the tract.

F. Lines with dimensions, bearings or deflection angles, radii, arcs, points of curvature, and tangent bearings for tract, lot, and block boundaries, and street right-of-way and centerlines. Tract boundaries and street bearings shall be shown to the nearest second with basis of bearings approved in advance by the County Surveyor. All distances shall be shown to the nearest hundredth of a foot. No ditto marks may be used.

G. 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 centerline. For streets on curvature, curve data shall be based on the street centerline and, in addition to the centerline dimensions, the radius and central angle shall be indicated.

H. Easements denoted by fine dotted lines, clearly identified and, if already of record, their recorded reference. If an easement is not definitely located of record, a statement of the easement. The width of the easement, its length and bearing, and sufficient ties to locate the easement with respect to the subdivision must be shown. If the easement is being dedicated by the map, it shall be properly referenced in the owner's certificates of dedication.

I. Lot numbers beginning with the number "1" and numbered consecutively.

J. Land tracts to be dedicated or reserved for any purpose, public or private, as distinguished from residential lots intended for sale.

K. References to any agreements including conditions of approval or special building restrictions that will be recorded with the plat.

L. The following certificates, which may be combined where appropriate:

1. A certificate signed and acknowledged by all parties having any record title interest in the land, consenting to the preparation and recording of the plat;

2. A certificate signed and acknowledged as above, dedicating all parcels of land shown on the final map as intended for any public use without any reservation or restriction whatsoever, except those parcels which are intended for the exclusive use of the lot;

3. A certificate signed by the engineer or the surveyor responsible for the survey and final map. The seal and signature of the engineer or surveyor.

M. For middle housing land divisions, the following notations:

1. The middle housing lots shown on the tentative plan were created pursuant to a middle housing land division and may not be further divided.

2. The middle housing developed on the middle housing lots shown on the final plat shall remain middle housing and shall not be considered to be any other housing type as a result of the middle housing land division. (Ord. 2219 § 2 (Exh. B), 2022; Ord. 1907 (Attach. 1), 2002)

#### **17.24.020 ADDITIONAL REQUIRED INFORMATION**

The following shall accompany the final plat application:

- 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 premises.
- B. Sheets and drawings signed by a professional civil engineer registered in Oregon showing the following:
  1. Traverse data including the coordinates of the boundary of the subdivision and showing the error of closure, if any;
  2. The computation of all distances, angles, courses, and lot areas shown on the final map;
  3. Ties to existing monuments, adjacent subdivisions, and street corners;
  4. Profiles of finished grade at centerline of all streets and public ways and a plan profile for all utilities.
- C. A copy of any deed restriction applicable to the subdivision.
- D. A certificate by the Engineering Director certifying that the applicant has complied with one of the following alternatives:
  1. All improvements have been installed in accordance with these regulations and with preliminary plat approval.
  2. An agreement has been executed as provided in Chapter 17.32 of this title to assure completion of all required improvements. (Ord. 1907 (Attach. 1), 2002)

#### **17.24.030 APPROVAL OF FINAL PLAT**

Approval of the final plat shall be indicated by signature of the Planning Manager and Engineering Director. (Ord. 2219 § 2 (Exh. B), 2022; Ord. 1907 (Attach. 1), 2002)

**17.24.040 FILING**

A. Within 6 months of City approval of the preliminary plat, the applicant shall submit the final plat for City signatures. Approval of the final plat shall be null and void if the plat is not submitted within the time specified or if the plat is not recorded within 30 days after the date the last required signature has been obtained. One copy of the recorded plat shall be supplied to the City.

B. A notice of middle housing land division shall be recorded for each middle housing lot with Clackamas County that states:

1. The middle housing lot may not be further divided.
2. No more than one unit of middle housing may be developed on each middle housing lot.
3. The dwelling developed on the middle housing lot is a unit of middle housing and is not a single attached or detached dwelling, or any other housing type.

C. For middle housing and expedited land divisions, the approval of a preliminary plat is void if and only if a final plat is not approved within 3 years of the preliminary plat approval. Within that time, any conditions of approval must be fulfilled and the final plat, as approved by the City, must be recorded by the applicant with Clackamas County. (Ord. 2219 § 2 (Exh. B), 2022; Ord. 1907 (Attach. 1), 2002)

**17.24.050 NOTICE FOR IMPROVEMENTS**

Before approval is certified on the final plat, the applicant shall either install required improvements and repair existing streets and other public facilities damaged in the development of the subdivision or file with the Engineering Director a notice specifying the period within which required improvements and repairs will be completed. In either case, the applicant shall reimburse the City for the cost of inspection by the City at a rate established by the City Council. All required improvements shall be guaranteed and bonded as provided in Chapter 17.32 of this title. (Ord. 1907 (Attach. 1), 2002)

**17.24.060 BOND**

A. The applicant shall file with the notice one of the following to assure his or her full and faithful performance:

1. An agreement to make improvements in a form approved by the City Attorney;
2. A letter of credit;

3. Cash.

B. Such assurance of full and faithful performance shall be for a sum determined by the City Manager or designee as sufficient to cover the cost of the improvements and repairs, including related engineering and incidental expenses, and to cover the cost of City inspection.

C. If the applicant fails to carry out said improvements and the City has unreimbursed costs or expenses resulting from such failure, the City may call the bond or cash deposit for reimbursement. If the amount of the bond or cash deposit exceeds the cost incurred by the City, the City shall release the remainder. If the amount of the bond or cash deposit is less than the cost incurred by the City, the applicant shall be liable to the City for the difference. (Ord. 2229 § 2, 2023; Ord. 1907 (Attach. 1), 2002)

**CHAPTER 17.28**

**DESIGN STANDARDS**

Sections:

17.28.010 Conformity of Subdivision

17.28.020 Public Facility Improvements

17.28.030 Easements

17.28.040 General Lot Design

17.28.050 Flag Lot Development and Future Access

17.28.060 Flag Lot Design Standards

17.28.070 Flag Lot Limitations

17.28.080 Public Open Spaces

**17.28.010 CONFORMITY OF SUBDIVISION**

Partitions and subdivisions shall conform with any development plans of the City and shall take into consideration any preliminary plans made in anticipation thereof and shall conform with the requirements of state laws and with the standards established by the City. (Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

**17.28.020 PUBLIC FACILITY IMPROVEMENTS**

All land divisions and boundary changes that increase the number of lots shall be subject to the requirements and standards contained in Chapter 19.700 Public Facility Improvements and the Public Works Standards for improvements to streets, sidewalks, bicycle facilities, transit facilities, and public utilities. (Ord. 2025 § 3, 2011; Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

**17.28.030 EASEMENTS**

A. Utility Lines

Easements for sewers, water mains, electric lines, or other public utilities shall be dedicated wherever necessary. The easements shall be provided in accordance with applicable design standards in the Public Works Standards.

B. Watercourses

If a subdivision is traversed by a watercourse such as a drainageway, channel, or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of the watercourse, and such further width as will be adequate for the purpose of construction and maintenance. Streets, parkways, bicycle ways, or pedestrian ways parallel to major watercourses may be required. (Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

**17.28.040 GENERAL LOT DESIGN**

This section does not apply to units of land that are created for purposes other than land development including parks, natural areas, right-of-way dedications, or reservations of a similar nature. Lots and tracts created for cottage cluster housing development, per Subsection 19.505.4, are also exempt from the requirements of this section.

A. Size and Shape

Lot size, width, shape, and orientation shall be appropriate for the location and the type of use contemplated. Minimum lot standards shall conform to Title 19.

B. Rectilinear Lots Required

Lot shape shall be rectilinear, except where not practicable due to location along a street radius, or existing lot shape. The sidelines of lots, as far as practicable, shall run at right angles to the street upon which the lots face. As far as practicable, the rear lot line shall run parallel to the street.

C. Limits on Compound Lot Line Segments

Changes in direction alongside and rear lot lines shall be avoided. Cumulative lateral changes in direction of a side or rear lot line exceeding 10% of the distance between opposing lot corners along a given lot line may only be permitted through the variance provisions of MMC Subsection 19.911. Changes in direction shall be measured from a straight line drawn between opposing lot corners.

D. Adjustments to Lot Shape Standard

Lot shape standards may be adjusted subject to Section 19.911 Variances.

E. Limits on Double and Reversed Frontage Lots

Double frontage and reversed frontage lots should be avoided, except where essential to provide separations of residential development from railroads, traffic arteries, or adjacent nonresidential uses, or to overcome specific disadvantages of topography and orientation.

F. Measurement of Required Frontage

Pursuant to the definition and development standards contained in Title 19 for frontage, required frontage shall be measured along the street upon which the lot takes access. (Ord. 2161 § 2, 2018; Ord. 2051 § 2, 2012; Ord. 2025 § 3, 2011; Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

### **17.28.050 FLAG LOT AND BACK LOT DEVELOPMENT AND FUTURE ACCESS**

Applicants for flag lot and back lot partitioning must show that access by means of a dedicated public street is not possible. Consideration shall be given to other inaccessible adjacent or nearby properties for which a jointly dedicated public right-of-way could provide suitable access and avoid other flag lots or back lots. The creation of flag lots or back lots shall not preclude the development of street access to surrounding properties. Where there is the potential for future development on adjacent lots with new roadway development, flag lots or back lots may be allowed as an interim measure. In this case, Planning Commission review shall be required and the flag lot(s) or back lots must be designed to allow for future street development. Dedication of the future street right-of-way shall be required as part of final plat approval. (Ord. 2218 § 2 (Exh. B), 2022; Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

### **17.28.060 FLAG LOT AND BACK LOT DESIGN STANDARDS**

A. Consistency with the Zoning Ordinance

Flag lot and back lot design shall be consistent with Subsection 19.504.8.

B. More than 2 Flag Lots or Back Lots Prohibited

The division of any unit of land shall not result in the creation of more than 2 flag lots or back lots within the boundaries of the original parent lot. Successive land divisions that result in more than 2 flag lots or back lots are prohibited. (Ord. 2218 § 2 (Exh. B), 2022; Ord. 2051 § 2, 2012; Ord. 2025 § 3, 2011; Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

**17.28.070 FLAG LOT AND BACK LOTS IN SUBDIVISIONS**

Flag lots and back lots are permitted in new subdivisions. (Ord. 2218 § 2 (Exh. B), 2022; Ord. 2051 § 2, 2012; Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

**17.28.080 PUBLIC OPEN SPACES**

A. Due consideration shall be given to the allocation of suitable areas for schools, parks, and playgrounds to be dedicated for public use.

B. Where a proposed park, playground or other public use shown in the Comprehensive Plan or master plan adopted by the City is located in whole or in part in a subdivision, the Planning Commission may require the dedication or reservation of such area within the subdivision.

C. Where considered desirable by the Planning Commission, and where the Comprehensive Plan or adopted master plan of the City does not indicate proposed public use area, the Planning Commission may require the dedication or reservation of areas or sites of a character, extent, and location suitable for the development of parks and other public use.

D. If the applicant is required to reserve land area for park, playground, or other public use, such land shall be acquired by the appropriate public agency within 18 months following plat approval, at a price agreed upon prior to approval of the plat, or such reservation shall be released to the applicant.

E. New residential projects will require the dedication of land if the development corresponds to park locations defined in the parks and recreation master plan.

F. In exchange for the dedication of parkland, the allowable density on the remaining lands will be increased, so that the overall parcel density remains the same. (Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)



**CHAPTER 17.32**

**IMPROVEMENTS**

Sections:

17.32.010 Improvement Procedures

17.32.020 Utility Undergrounding

17.32.030 Guarantee

**17.32.010 IMPROVEMENT PROCEDURES**

In addition to other requirements, improvements installed by the applicant, either as a requirement of these regulations or their own option, shall conform to the requirements of this title and to improvement standards and specifications in the Public Works Standards and Chapter 19.700 Public Facility Improvements. The improvements shall be installed in accordance with the following procedure:

- A. Work shall not begin until plans have been checked for adequacy and approved by the City in writing. All such plans shall be prepared in accordance with requirements of the City.
- B. Work shall not begin until the City has been notified in advance, and if work is discontinued for any reason, it shall not be resumed until the City is notified.
- C. Improvements shall be constructed under the inspection and to the satisfaction of the City. The City may require changes in typical sections and details if unusual conditions arising during construction warrant such changes in the public interest.
- D. All underground utilities, installed in streets by the applicant, including but not limited to, water, sanitary sewers, and storm drains shall be constructed prior to the surfacing of streets. Stubs for service connections shall be extended to property lines long enough to avoid disturbing the street improvements when service connections are made. How utilities are to be serviced shall be indicated.
- E. A map showing all public improvements as built shall be filed with the City upon completion of the improvements. All such maps shall be prepared in accordance with requirements of the City. (Ord. 2025 § 3, 2011; Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

**17.32.020 UTILITY UNDERGROUNDING**

All utility lines, including, but not limited to, those required for electric, communication, lighting, cable television services, and related facilities shall be placed underground. Surface-mounted transformers, surface-mounted connection boxes and meter cabinets, temporary utility service facilities during construction, high-capacity electric and communication feeder lines, and utility transmission lines operating at 50,000 volts or above may be placed above ground. The applicant shall make all necessary arrangements with the serving utility to provide the underground services. (Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

**17.32.030 GUARANTEE**

All improvements installed by the applicant shall be guaranteed as to workmanship and material for a period of 1 year following acceptance by the City. Such guarantee shall be secured by cash deposit or bond in the amount of the value of the improvements as set by the Engineering Director. Said cash or bond shall comply with the terms and conditions of Section 17.24.060. (Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

**CHAPTER 17.44**

**EXCEPTIONS AND VARIANCES**

Sections:

17.44.010 Variance

**17.44.010 VARIANCE**

A variance of any provision of this title may only be granted in accordance with Section 19.911. (Ord. 2025 § 3, 2011; Ord. 1907 (Attach. 1), 2002)

**Clean Amendments**

**TITLE 17**

**LAND DIVISION**

**Chapters:**

**17.04 Administration and Enforcement**

**17.08 Definitions**

**17.12 Application Procedure**

**17.16 Application Requirements**

**17.18 Approval Criteria**

**17.20 Preliminary Plat**

**17.22 Final Plat**

**17.24 Tracts and Easements**

**17.26 Middle Housing and Expedited Land Divisions**

**17.28 Design Standards**

**17.32 Improvements**

**17.44 Exceptions and Variances**

**CHAPTER 17.04**

**ADMINISTRATION AND ENFORCEMENT**

**17.04.010 TITLE AND STRUCTURE**

A. Title

The ordinance codified in this title shall be known and may be cited as the “Land Division Ordinance” of the City of Milwaukie.

B. Structure

This title is divided into chapters and sections. Chapter divisions are denoted by the 2-digit number following the title number. Section divisions are identified by the 3-digit number following the chapter division.

**17.04.020 AUTHORITY**

A. The Planning Manager has the authority to apply, interpret, and enforce the provisions of this title. An appeal from a ruling by the Planning Manager regarding a requirement of this title may be made to the Planning Commission under provisions of Chapter 19.1000.

B. The City Engineer has the authority to accept, conditionally accept, or reject construction and engineering plans and specifications in accordance with professional judgment and accepted engineering or surveying practices.

**17.04.030 CONSISTENCY WITH MUNICIPAL CODE**

All land divisions and property boundary changes must be consistent with Title 16 Environment, this title, Title 18 Flood Hazard Regulations, and Title 19 Zoning.

**17.04.040 APPROVAL REQUIRED**

All lot consolidations, land divisions, changes in property boundary lines, and creation of streets or rights-of-way must be approved in accordance with these regulations prior to conveying or recording any instrument effecting a lot consolidation, land division, or property boundary change. A person desiring to partition, subdivide, replat, consolidate, or change property boundaries must submit application for approval as provided in this title and State law.

**17.04.050 TIME LIMIT ON APPROVAL**

A. Expiration of Approval

Expiration of approvals are provided in Subsection 19.1001.7.E.

B. Extensions

Extension of approvals are provided in Subsection 19.908. An extension to an expiring land division approval must be approved when the provisions of Subsection 19.908 are met and provided that:

1. No changes are made on the original plan as approved;
2. The applicant can show intent of recording the land division or boundary change within the extension period; and
3. There have been no changes in the ordinance provisions on which the approval was based.

**17.04.060 REDUCTION OF LAND BELOW MINIMUM STANDARDS**

No unit of land shall be split or reduced by any means in conflict with the requirements of this title or Title 19 of this code. The splitting of a lot or parcel to add to another will not be allowed unless the remaining portion meets all zoning standards for the zone where the land is located, or it is simultaneously consolidated with a contiguous parcel, which will thereafter comply with zoning standards.

**17.04.070 CORRECTION OF IMPROPER LAND DIVISION OR BOUNDARY CHANGE**

Improper land divisions or boundary changes must be corrected by submission of appropriate applications and by following the associated review procedures prescribed in this title. This section does not preclude enforcement against violations of this title.

**17.04.080 FORM OF APPLICATIONS**

All applications provided for in this title must be made on forms prescribed by the Planning Manager.

**17.04.090 FEES**

A fee as established by resolution of the City Council must be paid to the City upon the filing of an application. Such fees will not be refundable.

**17.04.100 AMENDMENTS**

Legislative amendments to this title must be made in accordance with Chapter 19.1000 and Section 19.902.

**17.04.110 DETERMINATIONS OF LEGAL STATUS**

Requests for determinations on the legal status of units of land must be processed pursuant to Section 19.903 Code Interpretations and Director Determinations.

**17.04.120 RECORDING**

A. Recording instruments for boundary change, subdivision, partition, and replat must be submitted to the Clackamas County Surveyor.

B. Prior to recording a lot consolidation, property line adjustment, partition plat, or subdivision plat, the applicant must submit the recording instruments to the Planning Manager for a determination of consistency with the City Code and required approvals.

C. Lot consolidations for units of land legally created by metes and bounds descriptions may be recorded by deed subject to approval of the County Surveyor.

D. Subdivision and partition plats and replats, must be recorded by plat.

E. The applicant must submit the copy of the recorded lot consolidation, property line adjustment, partition plat, or subdivision plat survey map to the City prior to the issuance of any development permits on the new or re-configured lots.

**17.04.130 MONUMENTATION AND SURVEY**

A. Monuments are required in accordance with ORS Chapter 92.

B. Monumentation surveys must be filed with the County Surveyor in accordance with ORS Chapters 92 and 209.

**17.04.140 VIOLATION—PENALTIES**

Violation of any provision of this title is a civil infraction. The civil penalty for violation of this title will be \$200.00. The cost of completing or correcting any improvements required by this title and incurred by the City may be assessed to persons as part of the civil infraction judgment. Each day a violation continues must be considered a separate violation.

**17.04.150 APPEALS**

Appeals on actions authorized under this title must be made in accordance with Chapter 19.1000.

(Ord. 2025 § 3, 2011; Ord. 1907 (Attach. 1), 2002)

**CHAPTER 17.08**

## **DEFINITIONS**

The words and phrases used in this title have the meanings provided in this chapter.

“Access control strip” means a strip of land reserved between the end or side of a street, or of land between a dedicated street of less than full width and an abutting parcel of land, held for access control, future street extension, or widening.

“Applicant” means the person who has filed application for land use action, land division, boundary adjustment or other action requiring a response from the City.

“Approval authority” means the individual or governmental body authorized by this code to take action on applications for actions specified in this title.

“Bicycle way” means a right-of-way for bicyclists.

“Block” means a group of lots, tracts, or parcels which have been subdivided and are entirely surrounded by highways or streets or in part by a well-defined and fixed boundary.

“Boundary change” means the relocation of a property line established by dedication, deed, property line adjustment, lot consolidation, partition, subdivision, and/or replat.

“Buffer strip” means a strip of land of sufficient width to serve as a buffer between dissimilar use districts, existing in a natural or landscaped condition, and located along the edge of a subdivision.

“Building line” means a line on a plat or otherwise described indicating the limit beyond which buildings or structures may not be erected.

“City” means the City of Milwaukie, Oregon.

“Comprehensive Plan” means the plan adopted by the City Council for the guidance of growth and improvement of the City, including modifications or refinements, which may be made from time to time.

“Easement” means the right to use land in a limited way for a stated purpose.

“Expedited land division” means a partition or subdivision of a lot or parcel on which the development of housing is allowed as defined by ORS 197.360(1).

“Land division” means the division of land by partition, subdivision, or replat.

“Lot” means a legally defined unit of land other than a parcel or tract that is a result of a subdivision of land. For general purposes of this title, lot also means legal lots or lots of record under the lawful control, and in the lawful possession, of one distinct ownership. When one owner controls an area defined by multiple adjacent legal lots or lots of record, the owner may define a lot boundary coterminous with one or more legal lots or lots of record within the distinct ownership. Figure 19.201-1 illustrates some of the lot types defined below.

“Back lot” means a lot that does not have frontage on a public street, typically accessed via an easement over another property.

“Flag lot” means a lot that has a narrow frontage on a public street with access provided via a narrow accessway or “pole” to the main part of the lot used for building, which is located behind another lot that has street frontage. There are two distinct parts to the flag lot: the development area or “flag” which comprises the actual building site, and the access strip or “pole” which provides access from the street to the flag.

“Legal lot” means a unit of land other than a parcel or tract created through a subdivision or partition approved by the City.

“Lot of record” means a unit of land for which a deed or other instrument dividing the land was filed with the Clackamas County Recorder, which was not created through a partition or subdivision approved by the City, and which was created prior to October 5, 1973.

“Lot consolidation” means the elimination of a common property line between two or more units of land to form one unit of land.

“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).

“Monument” means a fixed, permanent, and visible landmark indicating boundaries.

“Owner” means the owner of record of real property as shown on the latest tax rolls of Clackamas County, or by the deed records of said County, or a person who is purchasing a parcel of property under contract.

“Parcel” means a single unit of land that is created by a partitioning of land.

“Partition” means either the act of partitioning land or an area of land partitioned.

“Partitioning” means to divide an area of land into two or three parcels within a calendar year but does not include the following:

A. A division of land resulting from a lien foreclosure, foreclosure of a recorded contract for the sale of real property, or the creation of cemetery lots;



B. An adjustment of a property line by the 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 applicable zoning;

C. The division of land resulting from the recording of a subdivision or condominium plat;

D. A 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 comprehensive plan and ORS 215.213 (2)(p) to (r) and 215.283 (2)(q) to (s). However, any property divided by the sale or grant of property for State highway, County road, City street or other right-of-way purposes must continue to be considered a single unit of land until such time as the property is further subdivided or partitioned; or

E. A sale or grant by a public agency or public body of excess property resulting from the acquisition of land by the State, a political subdivision or special district for highways, County roads, City streets or other right-of-way purposes when the sale or grant is part of a property line adjustment incorporating the excess right-of-way into adjacent property. The property line adjustment must be approved or disapproved by the applicable local government. If the property line adjustment is approved, it must be recorded in the deed records of the County where the property is located.

“Pedestrian way” means a right-of-way for pedestrians that is improved or unimproved.

“Person” means an individual, firm, partnership, corporation, company, association, syndicate, or any legal entity, and including any trustee, receiver, assignee, or other similar representative thereof.

“Plat” means and includes a map and other writing containing all the descriptions, locations, dedications, specifications, provisions, and information concerning a partition or subdivision.

“Property line adjustment” means the relocation of a common property line between two abutting units of land that does not result in the creation of a new unit of land.

“Replat” means the act of platting the lots, parcels, and easements in a recorded subdivision or partition plat to achieve a reconfiguration of the existing subdivision or partition plat, including an increase or decrease in the number of lots.

“Right-of-way” means the area between boundary lines of a public way.

“Sidewalk” means a pedestrian walkway with permanent surfacing to City standards.

“Street” means the width between the boundary lines of every way that provides for public use for the purpose of vehicular and pedestrian traffic and the placement of utilities. “Street” includes the terms “road,” “highway,” “lane,” “place,” “avenue,” “boulevard,” or other similar designations.

A. “Access street” means a street intended only for access to abutting properties.

B. “Alley” means a narrow street used for access to the back or side of properties otherwise abutting on another street.

C. “Major arterial street” means a street that carries both local and through traffic to destinations outside the local community. The major arterial provides access to other communities as well as access through Milwaukie. Public transit to other communities generally use a major arterial.

D. “Minor arterial street” means a street that carries local traffic between neighborhood areas or to regional facilities. The minor arterial provides access from neighborhood collector streets to community services and to alley and an abutting parcel of land, or a strip other neighborhoods within, or immediately adjacent to the City. Local public transit may use minor arterial streets.

E. “Collector street” means a street that serves internal traffic within areas having a single land use pattern. The collector streets carry local traffic within a neighborhood area. They carry traffic from the local streets to the minor and/or major arterial network or to schools, local shopping centers, or other local streets within the neighborhood.

F. “Cul-de-sac” means a short access street terminated by a vehicle turnaround.

G. “Dead-end street” means a street terminating at a property line, but which may be extended.

H. “Frontage street” means an access street parallel and adjacent to a major arterial street providing access to abutting properties, but protected from through traffic.

I. “Local street” means a street that provides direct access to abutting property.

“Subdivide land” means to divide an area or tract of land into four or more lots within a calendar year.

“Subdivision” means either an act of subdividing land or a unit of land subdivided as defined in this title.

“Tract” means a unit of land other than a lot or parcel. A tract is a piece of land created and designated as part of a land division that is not a lot, adjusted lot, lot remnant, lot of record, or a public right-of-way. Tracts are created and designed for a specific purpose. Land uses within a tract are restricted to those uses consistent with the stated purpose as described on the plat, or in the maintenance agreements, or through Conditions, Covenants and Restrictions (CC&Rs). Examples include stormwater management tracts, private street or alley tracts, tree preservation tracts, environmental resource tracts, and open space tracts.

“Unit of land” means a legally created lot, parcel, or other unit of real property legally created by metes and bounds description or other legal means that is recorded on the County land records as defined in ORS 92.010.

(Ord. 1907 (Attach. 1), 2002)

## **CHAPTER 17.12**

### **APPLICATION PROCEDURE**

#### **17.12.010 PURPOSE**

The purpose of this chapter is to specify the process and procedures for lot consolidation, property line adjustment, partition, and subdivision.,.

#### **17.12.020 APPLICATION PROCEDURE**

A. Applications for land division and property boundary changes will be processed in accordance with Chapter 19.1000 Type I and Type II procedures as indicated in this section.

B. An increase in the number of lots within the original boundaries of a partition plat must be reviewed as a subdivision when the number of existing lots that are to be modified combined with the number of proposed new lots exceeds 3.

C. A modification to a plat (i.e., a replat) that relocates or eliminates all or a portion of a common property line between abutting properties, including underlying lot lines, that does not create an additional lot or parcel will be processed as a property line adjustment or lot consolidation. This process requires a deed to be recorded that stipulates the lot to be a single lot for development and legal purposes.

D. A replat that results in the creation of a new parcel(s) or lot(s) will be processed as a partition or subdivision, depending on the number of resulting lots and according to the definitions provided in Chapter 17.04.

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<b>Table 17.12.020 Boundary Change Summary</b>		
<b><u>Boundary Change Action</u></b>	<b><u>Application Type/Land Use Action</u></b>	<b><u>Review Type</u></b>
<u>Consolidating legal lots created by deed.</u>	<u>Lot consolidation</u>	I
<u>Any boundary adjustment that is consistent with the ORS and this title but does not result in a change in the number of lots.</u>	<u>Property Line Adjustment</u>	I
<u>Any boundary adjustment that is affected by a plat restriction.</u>	<u>Property Line Adjustment</u>	II
<u>A land division, modification, or adjustment that results in up to 3 lots.</u>	<u>Partition</u>	II
<u>Any division, modification, or adjustment that results in 4 or more lots.</u>	<u>Subdivision</u>	II
<u>Any land division as defined by ORS 197.360 Expedited Land Division and/or land division of a middle housing project per ORS 197.758.</u>	<u>Expedited Land Division</u> <u>Middle Housing Land Division</u>	II

**17.12.030 Lot Consolidation, Property Line Adjustment**

A. Approval process. A lot consolidation or property line adjustment application is processed through a Type I procedure, as provided in Section 19.1004 and the application requirements in Chapter 17.16.

B. Approval criteria. The approval authority may approve, approve with conditions, or deny a lot consolidation or property line adjustment based on the approval criteria in Section 17.18.010.

C. Recording requirements. Upon approval of the proposed lot consolidation or property line adjustment, the applicant must record or file the signed lot consolidation or property line adjustment with Clackamas County and submit a copy of the recorded instrument to the City, to be incorporated into the record. References to required recorded deeds must be included on the record of survey.

D. Time limit. The applicant must submit the copy of the recorded lot consolidation or property line adjustment survey map to the City prior to the issuance of any development permits on the reconfigured lots.

### **17.12.040 Partition**

A. Conformance with state statute. All land partition proposals must comply with all state regulations as provided in ORS Chapter 92, Subdivision and Partitions.

B. Prohibition on sale of lots. Sale of lots created through the land partitioning process is prohibited until the final partition plat is recorded.

C. Approval through two-step process. A partition application requires a two-step process: the preliminary plat and the final plat.

1. Preliminary plat. A preliminary plat application is processed through a Type II procedure, as provided in Section 19.1005 and the application requirements in Chapters 17.16 and 17.20.

2. Final plat. The preliminary plat must be approved before the final plat can be submitted for approval. The final plat must satisfy all conditions of approval imposed as part of the preliminary plat approval pursuant to Chapter 17.20.

3. Full compliance with all requirements for subdivision may be required if the Planning Manager should determine that the entire parcel being partitioned is in the process of being divided for the purpose of subdivision. This provision applies if the land to be partitioned exceeds 2 acres and within a year is being partitioned into more than two parcels, any one of which is less than 1 acre.

D. Approval criteria. The approval authority may approve, approve with conditions, or deny a partition based on the approval criteria in Sections 17.18.020 and 17.18.030.

### **17.12.050 Subdivision**

A. Conformance with state statute. All subdivision proposals must comply with all state regulations as provided in ORS Chapter 92, Subdivision and Partitions.

B. Prohibition on sale of lots. Sale of lots created through the subdivision process is prohibited until the final plat is recorded.

C. Approval through two-step process. A subdivision application requires a two-step process: the preliminary plat and the final plat.

1. Preliminary plat. A preliminary plat application is processed through a Type II procedure, as provided in Section 19.1005. An application for a preliminary plat may be reviewed concurrently with an application for a planned development, as provided in Chapter 19.311, Planned Developments.

2. Final plat. The preliminary plat must be approved before the final plat can be submitted for approval. The final plat must satisfy all conditions of approval imposed as part of the preliminary plat approval pursuant to Chapter 17.20.

D. Approval criteria. The approval authority may approve, approve with conditions, or deny a subdivision based on the approval criteria in Sections 17.18.020 and 17.18.030.

(Ord. 1907 (Attach. 1), 2002)

## **CHAPTER 17.16**

### **APPLICATION REQUIREMENTS AND PROCEDURES**

#### **17.16.010 APPLICATION REQUIRED**

Application submissions for lot consolidation, property line adjustment, partition, subdivision, and replat must be made in accordance with provisions of this chapter.

#### **17.16.020 DETERMINATION OF COMPLETENESS**

##### **Consistency with Submission Requirements**

Applications must be reviewed for completeness and consistency with submission requirements of this chapter. Application submissions that do not meet the requirements of this chapter must be deemed incomplete for the purpose of ORS 227.178 and Chapter 19.1000. The City must provide to the applicant notice of whether an application is complete or incomplete in accordance with ORS 227.178 and Subsection 19.1003.3.

#### **17.16.030 WAIVER OF SUBMISSION REQUIREMENTS**

A. Certain application submission requirements may be waived at the discretion of the Planning Manager subject to meeting the following conditions:

1. The applicant shows good cause for the requested waiver;

2. The waiver does not compromise a proper and complete review; and

3. The information is not material to describing the proposal or demonstrating compliance with approval criteria.

B. Application submission requirements that may not be waived include:

1. Signed and completed application form, submission requirements form, and plan checklist;

2. Property owner's authorization for application to be made;

3. Detailed narrative description that specifies how the proposal complies with applicable codes; and

4. Required plans, maps, and drawings.

C. Application fees may only be waived by action of the City Council. (Ord. 1907 (Attach. 1), 2002)

#### **17.16.040 LOT CONSOLIDATION AND PROPERTY LINE ADJUSTMENT**

The following must accompany applications for lot consolidation and property line adjustments:

A. Completed application forms signed by all owners of property included in the proposal;

B. Application fee as adopted by the City Council;

C. Narrative report that describes how the proposal meets applicable approval criteria;

D. Additional information as may be required by the application check list; and

E. A surveyed and monumented plan prepared in accordance with ORS 92.060 (7) drawn to scale showing the following details:

1. Scale, north arrow, and date of map;

2. Tax map and lot number identifying each property involved in the application;

3. Adjacent rights-of-way, with width shown;

4. Location, width, and purpose of any recorded easements and/or plat restrictions;

5. Proposed property lines and dimensions of the affected lots;

6. The area of each lot;

- 7. Location of existing structures to remain and proposed structures, if any, with setbacks shown to all existing and proposed lot lines; and
- 8. Deeds of the properties involved.
- 9. Signature block for City signature and approval.

**17.16.050 PRELIMINARY PLAT FOR PARTITION AND SUBDIVISION**

The following must accompany applications for partition:

- A. Completed application form signed by all owners of property included in the proposal;
- B. Application fee as adopted by the City Council;
- C. Completed and signed submission requirements form and partition checklist or subdivision checklist forms as appropriate;
- D. All information specified on the submission requirements and partition checklist or subdivision checklist forms as appropriate;
- E. Requirements and information specified in Chapter 17.20; and
- F. Any additional information as may be needed to demonstrate compliance with applicable approval criteria. (Ord. 1907 (Attach. 1), 2002)

**17.16.060 FINAL PLAT FOR PARTITION AND SUBDIVISION**

The following must accompany applications for partition:

- A. A completed application form signed by all owners of property included in the proposal;
- B. The application fee as adopted by the City Council;
- C. Completed and signed submission requirements and final plat checklist forms;
- D. All information specified on the submission requirements and final plat checklist;
- E. A survey prepared by registered land surveyor showing setbacks to existing structures with sufficient detail to demonstrate compliance with yard requirements;
- F. Requirements and information specified in Chapter 17.22; and



G. Any additional information as may be needed to demonstrate compliance with applicable approval criteria.

(Ord. 1907 (Attach. 1), 2002)

## **CHAPTER 17.18**

### **APPROVAL CRITERIA**

#### **17.18.010 APPROVAL CRITERIA FOR LOT CONSOLIDATION AND PROPERTY LINE ADJUSTMENT**

A. Approval Criteria

The approval authority may approve, approve with conditions, or deny a lot consolidation or property line adjustment based on the following approval criteria. The applicant for a lot consolidation or property line adjustment must demonstrate the following:

1. Compliance with this title and Title 19 of this code.
2. The boundary change will allow reasonable development of the affected lots and will not create the need for a variance of any land division or zoning standard.
3. Boundary changes must not reduce residential density below minimum density requirements of the zoning district in which the property is located.

#### **17.18.020 APPROVAL CRITERIA FOR PRELIMINARY PLAT**

A. Approval Criteria

The approval authority may approve, approve with conditions, or deny a preliminary plat based on the following approval criteria:

1. The proposed preliminary plat complies with Title 19 of this code and other applicable ordinances, regulations, and design standards.
2. The proposed division will allow reasonable development and will not create the need for a variance of any land division or zoning standard.
3. The proposed subdivision plat name is not duplicative and the plat otherwise satisfies the provisions of ORS 92.090(1).

4. The streets and roads are laid out so as to conform to the plats of subdivisions already approved for adjoining property as to width, general direction, and in all other respects unless the City determines it is in the public interest to modify the street or road pattern.

5. A detailed narrative description demonstrating how the proposal conforms to all applicable code sections and design standards.

#### **17.18.030 APPROVAL CRITERIA FOR FINAL PLAT**

Following the Type I procedure, the Planning Manager and the City Engineer must review the final plat and must approve or deny the final plat based on findings of compliance with the following:

A. The final plat complies with the preliminary plat approved by the approval authority and all conditions of approval have been satisfied.

B. The preliminary plat has not lapsed.

C. The streets and roads for public use are dedicated without reservation or restriction other than revisionary rights upon vacation of any such street or road and easements for public utilities.

D. The plat contains a donation to the public of all common improvements, including but not limited to streets, roads, parks, sewage disposal, and water supply systems.

E. All common improvements required as conditions of approval have been described and referenced on the plat, and where appropriate, instruments to be recorded have been submitted.

F. The plat complies with the Zoning Ordinance and other applicable ordinances and regulations.

G. Submission of signed deeds when access control strips are shown on the plat.

H. The plat contains an affidavit by the land surveyor who surveyed that the land represented on the plat was correctly surveyed and marked with proper monuments as provided by ORS Chapter 92.060, and indicating the initial point of the survey, and giving the dimensions and kind of such monument, and its reference to some corner established by the U.S. Survey or giving 2 or more objects for identifying its location.

(Ord. 1907 (Attach. 1), 2002)

#### **CHAPTER 17.20**

## **PRELIMINARY PLAT**

### **17.20.010 SUBMISSION OF PLANS**

Applicants for partition and subdivision must prepare a preliminary plat and such improvement plans and other supplemental material including as may be required to describe and represent the objectives of the proposal.

### **17.20.020 SCALE**

The preliminary plat must be drawn at a scale and on a sheet size that reliably and conveniently represents design details sufficient for the proper plan review and determination of compliance with this title.

### **17.20.030 GENERAL INFORMATION TO BE SHOWN ON THE PRELIMINARY PLAT**

A. Preliminary plats must be prepared by an Oregon registered professional land surveyor in compliance with ORS 92.060.

B. Preliminary plats must include all information as identified on the application forms and preliminary plat checklist prescribed by the Planning Manager.

C. Vicinity map must be drawn at an appropriate scale, showing all existing subdivisions, streets, and unsubdivided land between the proposed subdivision and the nearest existing arterial or collector streets, and showing how proposed streets may be extended to connect with existing streets. At a minimum, the vicinity map must depict future street connections for land within 400 feet of the subject property.

### **17.20.040 BUILDING LINES PROHIBITED**

Platted building lines are prohibited. The effect of building lines may be executed through recordation of instruments, which must be referenced on the recorded plat.

### **17.20.050 EXISTING CONDITIONS**

The following must be shown on the preliminary plat:

A. Location, width, and names of all existing or platted streets within or adjacent to the tract, together with easements, railroad right-of-way, and other important features, such as section lines and corners, City boundary lines, and monuments.

B. Contour lines related to an established benchmark or other datum approved by the Engineering Director, with intervals at a minimum of 2 ft for slopes up to 10% and 5 ft for slopes over 10%.

C. Location within the area to be divided, and in the adjoining streets and property, of existing sewers, water mains, culverts, storm drain system, and electric conduits or lines proposed to service the property to be subdivided, and invert elevations of sewer manholes, drain pipes, and culverts.

D. Zoning and existing uses within the tract and 200 ft on all sides, including the location and use of all existing structures indicating those that will remain and those to be removed.

E. Approximate location of areas subject to inundation or stormwater overflow with approximate high-water elevation. Location, width, direction, and flow of all watercourses on or abutting the tract including wetlands and watercourses as shown on City-adopted natural resource and Title 3 maps.

F. Natural features such as rock outcroppings, drainages whether seasonal or perennial, wooded areas, and trees, including type and caliper, per the requirements for a tree inventory identified in MMC 16.32.042.

G. Floodway and floodplain boundary.

H. Areas containing slopes of 25% or greater.

#### **17.20.060 PROPOSED CONDITIONS**

A. The plat must include the following information:

1. Date, north point, scale, address, assessor reference number, and legal description;

2. Name and address of the record owner or owners and of the person who prepared the site plan;

3. Approximate acreage and square feet under a single ownership, or if more than one ownership is involved, the total contiguous acreage of all landowners directly involved in the partition;

4. For land adjacent to and within the area to be divided, the locations, names, and existing widths of all streets, driveways, public safety accesses, easements, and rights-of-way; location, width, and purpose of all other existing easements; and location and size of sewer and waterlines, drainage ways, power poles, and other utilities;

5. Location of existing structures, identifying those to remain in place and those to be removed;

6. Lot design and layout, showing proposed setbacks, landscaping, buffers, driveways, lot sizes, and relationship to existing or proposed streets and utility easements; and tree preservation and planting information per the requirements in MMC 16.32.042.

7. Existing development and natural features for the site and adjacent properties, including those properties within 100 ft of the proposal, showing buildings, mature trees, topography, and other structures;
8. Elevation and location of flood hazard boundaries;
9. The location, width, name, and approximate centerline grade and curve radii of all streets; the relationship of all streets to any projected streets planned by the City; whether roads will continue beyond the plat; and existing and proposed grade profiles. No street name may be used which will duplicate or be confused with the name of an existing street, except for extensions of existing streets. Street names and numbers must conform to the established pattern in the surrounding area.
10. Improvements to be made by the developer and the approximate time such improvements are to be completed. Sufficient detail regarding proposed improvements must be submitted so that they may be checked for compliance with the objectives of this title, State law, and other applicable City ordinances. If the nature of the improvements is such that it is impractical to prepare all necessary details prior to approval of the preliminary plat, the additional details must be submitted with the request for final plat approval. (Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

## **CHAPTER 17.22**

### **FINAL PLAT**

#### **17.22.010 REQUIRED PLAT INFORMATION**

In addition to that otherwise specified by law, the following information must be shown on the final plat:

- A. The date, scale, north point, legend, plat boundary, and controlling topography such as creeks and highways;
- B. Legal description of the tract boundaries;
- C. Name of the owner(s), applicant(s), and surveyor.
- D. Reference points of existing surveys identified, related to the plat by distances and bearings, and referenced to a field book or map as follows:
  1. Stakes, monuments, or other evidence found on the ground and used to determine the boundaries of the subdivision;
  2. Adjoining corners of adjoining subdivisions;
  3. Other monuments found or established in making the survey of the subdivision or required to be installed by provision of this title.

E. The exact location and width of streets and easements intersecting the boundary of the tract.

F. Lines with dimensions, bearings or deflection angles, radii, arcs, points of curvature, and tangent bearings for tract, lot, and block boundaries, and street right-of-way and centerlines. Tract boundaries and street bearings must be shown to the nearest second with basis of bearings approved in advance by the County Surveyor. All distances must be shown to the nearest hundredth of a foot. No ditto marks may be used.

G. 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 centerline. For streets on curvature, curve data must be based on the street centerline and, in addition to the centerline dimensions, the radius and central angle must be indicated.

H. Easements denoted by fine dotted lines, clearly identified and, if already of record, their recorded reference. If an easement is not definitely located of record, a statement of the easement. The width of the easement, its length and bearing, and sufficient ties to locate the easement with respect to the subdivision must be shown. If the easement is being dedicated by the map, it must be properly referenced in the owner's certificates of dedication.

I. Lot numbers beginning with the number "1" and numbered consecutively.

J. Land tracts to be dedicated or reserved for any purpose, public or private, as distinguished from residential lots intended for sale.

K. References to any agreements including conditions of approval or special building restrictions that will be recorded with the plat.

L. The following certificates, which may be combined where appropriate:

1. A certificate signed and acknowledged by all parties having any record title interest in the land, consenting to the preparation and recording of the plat;

2. A certificate signed and acknowledged as above, dedicating all parcels of land shown on the final map as intended for any public use without any reservation or restriction whatsoever, except those parcels which are intended for the exclusive use of the lot;

3. A certificate signed by the engineer or the surveyor responsible for the survey and final map. The seal and signature of the engineer or surveyor.

#### **17.22.020 ADDITIONAL REQUIRED INFORMATION**

The following must accompany the final plat application:

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 premises.

B. Sheets and drawings signed by a professional civil engineer registered in Oregon showing the following:

1. Traverse data including the coordinates of the boundary of the subdivision and showing the error of closure, if any;
2. The computation of all distances, angles, courses, and lot areas shown on the final map;
3. Ties to existing monuments, adjacent subdivisions, and street corners;
4. Profiles of finished grade at centerline of all streets and public ways and a plan profile for all utilities.

C. A copy of any deed restriction applicable to the subdivision.

#### **17.22.030 APPROVAL OF FINAL PLAT**

Approval of the final plat must be indicated by signature of the Planning Manager and City Engineer.

#### **17.22.040 FILING**

A. Once the City has reviewed and approved the final plat, the applicant must submit the final plat to the County for signatures of County officials as required by ORS Chapter 92.. The final plat must be recorded with any deed restrictions required as a condition of approval prior to the issuance of any development permits.

B. Proof of recording. Upon final recording with the County, the applicant must submit to the City an electronic copy of the recorded final plat and a copy of recorded deed restrictions. The applicant must submit the copy of the recorded plat to the City prior to the issuance of any development permits on the newly created lots.

#### **17.22.050 NOTICE FOR IMPROVEMENTS**

Before approval is certified on the final plat, the applicant must either install required improvements and repair existing streets and other public facilities damaged in the development of the subdivision or file with the City Engineer a notice specifying the period within which required improvements and repairs will be completed. In either case, the applicant must reimburse the City for the cost of plan review and construction inspection by the City at a rate established by the City Council. All required improvements must be guaranteed and bonded as provided in Chapter 17.32 of this title.

**17.22.060 BOND**

A. The applicant must file with the notice one of the following to assure their full and faithful performance:

1. An agreement to make improvements in a form approved by the City Attorney;
2. A letter of credit;
3. Cash.

B. Such assurance of full and faithful performance must be for a sum determined by the City Engineer as sufficient to cover the cost of the improvements and repairs.

C. If the applicant fails to carry out said improvements and the City has unreimbursed costs or expenses resulting from such failure, the City may call the bond or cash deposit for reimbursement. If the amount of the bond or cash deposit exceeds the cost incurred by the City, the City must release the remainder. If the amount of the bond or cash deposit is less than the cost incurred by the City, the applicant will be liable to the City for the difference.

(Ord. 1907 (Attach. 1), 2002)

**CHAPTER 17.24**

**REQUIREMENTS FOR TRACTS AND EASEMENTS**

A. Ownership of tracts. Tracts must be owned as follows unless otherwise specified in this Title or the land use decision:

1. The owners of property served by the tract, or by any other individual or group of people. When the tract is owned by more than one person it must be held in common with an undivided interest;
2. The Homeowners' Association for the area served by the tract;
3. A public or private non-profit organization; or
4. The City or other jurisdiction.

B. Maintenance agreement. The applicant must record with the County Recorder a maintenance agreement that commits the owners or owners' designee to maintain all elements of the tract or easement; however, facilities within the tract or easement that will be maintained by a specified City agency may be recorded in a separate maintenance agreement. The maintenance agreement must be approved by the City in advance of Final Plat approval and must be submitted to the County Recorder to be recorded with the Final Plat.

(Ord. 1907 (Attach. 1), 2002)

**CHAPTER 17.26**



**MIDDLE HOUSING AND EXPEDITED LAND DIVISIONS**

**17.26.010 Middle Housing Land Divisions**

A. A middle housing land division is a partition or subdivision of a lot or parcel 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. Townhouses, by definition, are already on their own lots, so a middle housing land division is not applicable to townhouse developments. Following the land division, the units of land created in a middle housing land division, the sublots or subparcels, will be collectively considered a single lot or parcel for all but platting and property transfer purposes under City code and state rules and statutes, including:

1. Lot standards such as size, setback, lot coverage, and lot width and depth;
2. Definition of unit types (e.g., a detached quadplex development where each unit is on its own lot through a middle housing land division would still be considered a detached quadplex development rather than four lots with single detached units);
3. Allowed number of dwelling units and accessory dwelling units; and
4. Compliance with middle housing rules and statutes in ORS 197 and OAR 660-046.

B. Applications for any land division affecting middle housing as provided in ORS 197.758(2) must be processed as an expedited land division process as outlined in ORS 197.360 to 197.380. Pursuant to the expedited land division process, a middle housing land division will be processed according to Section 19.1005 Type II Review. Further division of the resulting lots or parcels (sublots) in an approved middle housing land division is prohibited.

C. Approval through two-step process. A middle housing land division requires a two-step process: a preliminary plat and a final plat.

1. Preliminary plat. A middle housing land division preliminary plat application is processed through an expedited Type II procedure, as provided in Section 19.1005.
2. Final plat. The preliminary plat must be approved before the final plat can be submitted for approval. The final plat must satisfy all conditions of approval imposed as part of the preliminary plat approval.

D. Approval criteria—Preliminary plat. The approval authority may approve, approve with conditions, or deny a middle housing land division preliminary plat based on the following approval criteria:

1. The proposed preliminary plat complies with Title 19 of this code and other applicable ordinances, regulations, and design standards.
2. The proposed division will allow reasonable development and will not create the need for a variance of any land division or zoning standard.
3. The proposed subdivision plat name is not duplicative and the plat otherwise satisfies the provisions of ORS 92.090(1).
4. The streets and roads are laid out so as to conform to the plats of subdivisions already approved for adjoining property as to width, general direction, and in all other respects unless the City determines it is in the public interest to modify the street or road pattern.
5. A detailed narrative description demonstrating how the proposal conforms to all applicable code sections and design standards.
6. Approval of a preliminary plat for a middle housing land division will be granted if the Planning Manager 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 middle housing regulations in this code. To demonstrate compliance with this criterion, the applicant must submit approved building permits or concurrent building permits demonstrating that existing or proposed structures comply with the Oregon Residential Specialty Code and middle housing regulations in Titles 12 and 19.
  - b. The middle housing development is in compliance with the land use regulations applicable to the parent lot allowed under ORS 197.758(5).
  - c. Separate utility service connections for public water, sewer, and stormwater will be provided for each dwelling unit.
  - d. Easements will be provided as necessary for each dwelling unit on the site for:
    - (1) Locating, accessing, replacing, and servicing all utilities;
    - (2) Pedestrian access from each dwelling unit to a private or public road;
    - (3) Any common use areas or shared building elements;
    - (4) Any dedicated driveways or parking; and
    - (5) Any dedicated common area.

e. Exactly one dwelling unit will be located on each subplot except for lots or tracts used as common areas, on which no dwelling units will be permitted.

f. Buildings or structures on a subplot will comply with applicable building codes provisions relating to new property lines.

g. Structures or buildings located on the sublots will comply with the Oregon Residential Specialty Code.

h. Where a resulting 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 Chapter 19.700.

i. The proposed middle housing land division will not cause any existing improvements on the sublots to be inconsistent with applicable standards in this land use code.

E. Conditions of Approval

The approval authority may attach such conditions as are necessary to carry out the applicable ordinances and regulations and may require access control strips be granted to the City for the purpose of controlling access to adjoining undeveloped properties.

1. The City will attach conditions of approval of a preliminary plat for a middle housing land division to:

a. Require that a notation appear on the final plat indicating:

(1) The sublots shown on the tentative plan were created pursuant to a middle housing land division and may not be further divided.

(2) The middle housing developed on the sublots shown on the preliminary plat must remain middle housing and will not be considered to be any other housing type as a result of the middle housing land division.

(3) Accessory dwelling units are not permitted on sublots resulting from a middle housing land division.

(4) Ensure that improvements associated with review criteria in this section are provided.

b. The preliminary plat 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. 2219 § 2 (Exh. B), 2022; Ord. 1965 §§ 6, 7, 2006; Ord. 1907 (Attach. 1), 2002)

F. Approval criteria – Final plat. The Planning Manager and the City Engineer must review the final plat and must approve or deny the final plat based on findings of compliance with the following:

1. The final plat complies with the preliminary plat approved by the approval authority and all conditions of approval have been satisfied.
2. The preliminary plat has not lapsed.
3. The streets and roads for public use are dedicated without reservation or restriction other than revisionary rights upon vacation of any such street or road and easements for public utilities.
4. The plat contains a donation to the public of all common improvements, including but not limited to streets, roads, parks, sewage disposal, and water supply systems.
5. All common improvements required as conditions of approval have been described and referenced on the plat, and where appropriate, instruments to be recorded have been submitted.
6. The plat complies with Title 19 and other applicable ordinances and regulations.
7. Submission of signed deeds when access control strips are shown on the plat.
8. The plat contains an affidavit by the land surveyor who surveyed that the land represented on the plat was correctly surveyed and marked with proper monuments as provided by ORS Chapter 92.060, and indicating the initial point of the survey, and giving the dimensions and kind of such monument, and its reference to some corner established by the U.S. Survey or giving 2 or more objects for identifying its location.
9. The final plat includes the following:
  - a. A note prohibiting further division of the sublots;
  - b. Labels and descriptions for all tracts;
  - c. A reference to any deed restrictions imposed on the lot or sublots as a condition of approval of the original lot creation, subplot plat, or development approval; and

d. The middle housing developed on the sublots shown on the final plat must remain middle housing and will not be considered to be any other housing type as a result of the middle housing land division. (Ord. 2219 § 2 (Exh. B), 2022; Ord. 1907 (Attach. 1), 2002)

10. The City's engineering department has provided written confirmation that a sewage disposal system will be available to the subplot line of each subplot depicted in the final subplot plat.

11. All public improvements have been installed and inspected and have been approved.

12. A copy of the recorded document establishing a homeowner's association or similar entity to manage all commonly held areas located in tracts has been provided to the City. At a minimum this document must include the following:

a. A description of the common elements located in tracts.

b. An allocation to each unit included in the subplot plat of an undivided and equal interest in the common elements and the method used to establish the allocation.

c. An establishment of use rights for common elements, including responsibility for enforcement, and

d. A maintenance agreement for common elements, including an allocation or method of determining liability for a failure to maintain.

### **17.26.020 Expedited Land Division**

Approval through two-step process. An expedited land division requires a two-step process: a preliminary plat and a final plat.

A. Preliminary Plat. Expedited land divisions are defined by ORS 197.360(1) and are processed according to Section 19.1005, Type II Review. The expedited land division/middle housing land division review process provides for review by the Planning Manager of an application based on provisions specified in this land use code. The application process includes notice to nearby occupants and property owners to allow for public comments prior to the Planning Manager's decision. Eligibility and approval criteria are detailed in Subsection 17.12.040.A.7 of this chapter.

B. Final plat. The preliminary plat must be approved before the final plat can be submitted for approval. The final plat must satisfy all conditions of approval imposed as part of the preliminary plat approval.

C. Approval criteria – Preliminary plat. The approval authority may approve, approve with conditions, or deny a preliminary plat for an expedited land division based on the following approval criteria:

1. The proposed preliminary plat complies with Title 19 of this code and other applicable ordinances, regulations, and design standards.
2. The proposed division will allow reasonable development and will not create the need for a variance of any land division or zoning standard.
3. The proposed subdivision plat name is not duplicative and the plat otherwise satisfies the provisions of ORS 92.090(1).
4. The streets and roads are laid out so as to conform to the plats of subdivisions already approved for adjoining property as to width, general direction, and in all other respects unless the City determines it is in the public interest to modify the street or road pattern.
5. A detailed narrative description demonstrating how the proposal conforms to all applicable code sections and design standards.
6. The proposed partition only includes land zoned for residential uses;
7. The parcels created will only be developed for residential use, including recreational or open space accessory to residential use;
8. The land division satisfies minimum street or other right-of-way connectivity standards established by the City's Transportation System Plan, Public Works Standards, and Chapter 19.700;
9. 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:
  - a. Open spaces, mapped historic properties as identified on Map 3 on the comprehensive plan, and mapped natural resources as regulated by Section 19.402; or
  - b. The Willamette River Greenway as regulated by Section 19.401.
10. The land division will result in development that either:
  - a. Creates enough lots or parcels to allow building residential units at 80% or more of the maximum net density permitted by the zoning designation of the site; or

b. Will be sold or rented to households with incomes below 120% of the median family income for Clackamas County.

D. Approval criteria – Final plat. The Planning Manager and the City Engineer must review the final plat and must approve or deny the final plat based on findings of compliance with the following:

1. The final plat complies with the preliminary plat approved by the approval authority and all conditions of approval have been satisfied.
2. The preliminary plat has not lapsed.
3. The streets and roads for public use are dedicated without reservation or restriction other than revisionary rights upon vacation of any such street or road and easements for public utilities.
4. The plat contains a donation to the public of all common improvements, including but not limited to streets, roads, parks, sewage disposal, and water supply systems.
5. All common improvements required as conditions of approval have been described and referenced on the plat, and where appropriate, instruments to be recorded have been submitted.
6. The plat complies with the Zoning Ordinance and other applicable ordinances and regulations.
7. Submission of signed deeds when access control strips are shown on the plat.
8. The plat contains an affidavit by the land surveyor who surveyed that the land represented on the plat was correctly surveyed and marked with proper monuments as provided by ORS Chapter 92.060, and indicating the initial point of the survey, and giving the dimensions and kind of such monument, and its reference to some corner established by the U.S. Survey or giving two or more objects for identifying its location.

(Ord. 2219 § 2 (Exh. B), 2022; Ord. 2168 § 2, 2019; Ord. 2025 § 3, 2011; Ord. 2001 § 2, 2009; amended during Supp. No. 2; Ord. 1907 (Attach. 1), 2002)

## **CHAPTER 17.28**

### **DESIGN STANDARDS**

#### **17.28.010 CONFORMITY OF SUBDIVISION**

Partitions and subdivisions must conform with any development plans of the City and must take into consideration any preliminary plans made in anticipation thereof and must conform with the requirements of state laws and with the standards established by the City.

**17.28.020 PUBLIC FACILITY IMPROVEMENTS**

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

**17.28.030 EASEMENTS**

**A. Utility Lines**

Easements for sewers, water mains, electric lines, or other public utilities must be dedicated wherever necessary. The easements must be provided in accordance with applicable design standards in the Public Works Standards.

**B. Watercourses**

If a subdivision is traversed by a watercourse such as a drainageway, channel, or stream, there must be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of the watercourse, and such further width as will be adequate for the purpose of construction and maintenance. Streets, parkways, bicycle ways, or pedestrian ways parallel to major watercourses may be required.

**17.28.040 GENERAL LOT DESIGN**

This section does not apply to units of land that are created for purposes other than land development including parks, natural areas, right-of-way dedications, or reservations of a similar nature. Lots and tracts created for cottage cluster housing development, per Subsection 19.505.4, are also exempt from the requirements of this section.

**A. Size and Shape**

Lot size, width, shape, and orientation must be appropriate for the location and the type of use contemplated. Minimum lot standards must conform to Title 19. Lot shape standards may be adjusted subject to Section 19.911 Variances.

**B. Rectilinear Lots Required**

Lot shape must be rectilinear, except where not practicable due to location along a street radius, or existing lot shape.

**C. Limits on Compound Lot Line Segments**



Cumulative lateral changes in direction of a side or rear lot line exceeding 20% of the distance between opposing lot corners along a given lot line may only be permitted through the variance provisions of MMC Subsection 19.911. Changes in direction must be measured from a straight line drawn between opposing lot corners.

D. Limits on Double and Reversed Frontage Lots

Double frontage and reversed frontage lots should be avoided, except where essential to provide separations of residential development from railroads, traffic arteries, or adjacent nonresidential uses, or to overcome specific disadvantages of topography and orientation.

E. Measurement of Required Frontage

Pursuant to the definition and development standards contained in Title 19 for frontage, required frontage must be measured along the street upon which the lot takes access. (

**17.28.050 FLAG LOT AND BACK LOT DEVELOPMENT AND FUTURE ACCESS**

Applicants for flag lot and back lot partitioning must show that access by means of a dedicated public street is not possible, by submitting an engineering analysis confirming that there is no opportunity for a public street, which must be reviewed and accepted by the City. This does not preclude the City from requiring public pedestrian/bicycle access in place of a public street. Consideration must be given to other inaccessible adjacent or nearby properties for which a jointly dedicated public right-of-way could provide suitable access and avoid other flag lots or back lots.

The creation of flag lots or back lots must not preclude the development of public access to surrounding properties. Where there is the potential for future development on adjacent lots with new roadway development, flag lots or back lots may be allowed as an interim measure. Dedication of the future public right-of-way is required as part of final plat approval.

**17.28.060 FLAG LOT AND BACK LOT DESIGN STANDARDS**

A. Consistency with the Zoning Ordinance

Flag lot and back lot design must be consistent with Subsection 19.504.8.

B. More than Two Flag Lots or Back Lots Prohibited

The division of any unit of land must not result in the creation of more than two flag lots or back lots within the boundaries of the original parent lot. Successive land divisions that result in more than two flag lots or back lots are prohibited.

**17.28.070 FLAG LOTS AND BACK LOTS IN SUBDIVISIONS**

Flag lots and back lots are permitted in new subdivisions.

**17.28.080 PUBLIC OPEN SPACES**

A. Due consideration must be given to the allocation of suitable areas for schools, parks, and playgrounds to be dedicated for public use.

B. Where a proposed park, playground or other public use shown in the Comprehensive Plan or master plan adopted by the City is located in whole or in part in a subdivision, the City may require the dedication or reservation of such area within the subdivision.

C. Where considered desirable by the City, and where the Comprehensive Plan or adopted master plan of the City does not indicate proposed public use area, the City may require the dedication or reservation of areas or sites of a character, extent, and location suitable for the development of parks and other public use.

D. If the applicant is required to reserve land area for park, playground, or other public use, such land must be acquired by the appropriate public agency within 18 months following plat approval, at a price agreed upon prior to approval of the plat, or such reservation must be released to the applicant.

E. New residential projects will require the dedication of land if the development corresponds to park locations defined in the Comprehensive Plan.

F. In exchange for the dedication of parkland, the allowable density on the remaining lands will be increased, so that the overall parcel density remains the same.

**17.28.090 LAND DIVISION WITH LEFTOVER PARCEL OR LOT**

A. Applicability. This provision applies to residential land division proposals where there is an existing dwelling unit(s) that will be on its own parcel or lot and the remaining property will be "leftover" in that it will require further land division to meet the minimum density standard for the underlying zone.

B. Conditions. An application for a land division may have a maximum of two leftover parcels or lots that are not included as part of a phased subdivision if the following conditions are met:

1. The original parcel or lot has an existing habitable dwelling unit(s) on it built on or before (date of adoption of this code).
2. The leftover parcel(s) or lot(s) must be capable of further development.
3. The proposed land division will not preclude ultimate buildout of the original parcel or lot per an adopted or submitted and approved Concept Plan, as applicable.
4. When a land division places a primary dwelling unit on a parcel or lot separate from an accessory structure or an accessory dwelling, the accessory structure or dwelling must be:

- a. Removed upon transfer of ownership of either parcel or lot; or
- b. An accessory dwelling must be converted to a conforming primary dwelling as part of the land division application.

C. Development of Leftover Parcels or Lots. Leftover parcels or lots created under this provision may not be developed until they are further divided into additional parcels or lots pursuant to this title, where applicable. Parcels or lots created from leftover parcels or lots must be consistent with the standards of the applicable provisions in Title 19, to ensure that the applicable minimum density standard is met.

D. Submittal Requirements. The following must be provided with submittal for the land division:

1. Payment-in-lieu of required future improvements along the existing street frontage(s) of the leftover parcel(s) or lot(s).
2. A deed restriction requiring removal of any applicable accessory structure or accessory dwelling unit upon transfer of ownership of either parcel or lot.
3. A concept plan that includes the following:
  - a. For single detached dwelling and middle housing development:
    - i. A plot plan showing a future platting of the leftover parcel(s) or lot(s) that meets minimum density.
    - ii. Access and street layout, as applicable.
    - iii. Plan sheet showing requirements of other applicable provisions of Title 17.
  - b. For all other uses, including but not limited to multi-unit, commercial, industrial, and mixed-use development:
    - i. A plot plan showing a future platting of the leftover parcel(s) or lot(s) that meets minimum density.
    - ii. Future uses.
    - iii. Building footprints.
    - iv. Parking areas.
    - v. Access and street layout (as applicable).
    - vi. Plan requirements of other applicable provisions of Title 17.

(Ord. 2218 § 2 (Exh. B), 2022; Ord. 2051 § 2, 2012; Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

## **CHAPTER 17.32**

### **IMPROVEMENTS**

#### **17.32.010 IMPROVEMENT PROCEDURES**

In addition to other requirements, improvements installed by the applicant, either as a requirement of these regulations or their own option, must conform to the requirements of this title and to improvement standards and specifications in the Public Works Standards and Chapter 19.700 Public Facility Improvements. The improvements must be installed in accordance with the following procedure:

A. Work must not begin until plans have been checked for adequacy and approved by the City in writing and a performance bond, as provided in Section 17.24.060, and certificate of insurance, as provided in the Public Works Standards, are provided to the City. All such plans, performance bond, and certificate of insurance, must be prepared in accordance with requirements of the City.

B. Work must not begin until the City has been notified in advance, and if work is discontinued for any reason, it must not be resumed until the City is notified.

C. Improvements must be constructed under the inspection and to the satisfaction of the City. The City may require changes in typical sections and details if unusual conditions arising during construction warrant such changes in the public interest.

D. All underground utilities, installed in streets by the applicant, including but not limited to, water, sanitary sewers, and storm drains must be constructed prior to the surfacing of streets. Stubs for service connections must be extended to property lines long enough to avoid disturbing the street improvements when service connections are made. How utilities are to be serviced must be indicated.

E. A map showing all public improvements as built must be filed with the City upon completion of the improvements. All such maps must be prepared in accordance with requirements of the City.

### **17.32.020 UTILITY UNDERGROUNDING**

All utility lines, including, but not limited to, those required for electric, communication, lighting, cable television services, and related facilities must be placed underground. Surface-mounted transformers, surface-mounted connection boxes and meter cabinets, temporary utility service facilities during construction, high-capacity electric and communication feeder lines, and utility transmission lines operating at 50,000 volts or above may be placed above ground. The applicant must make all necessary arrangements with the serving utility to provide the underground services.

### **17.32.030 GUARANTEE**

All improvements installed by the applicant must be guaranteed as to workmanship and material for a period of 4 2 years following acceptance by the City. Such guarantee must be secured by cash deposit or maintenance warranty bond in the amount of the value of the improvements as set by the City Engineer. Said cash or bond must comply with the terms and conditions of Section 17.24.060.

(Ord. 2025 § 3, 2011; Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

## **CHAPTER 17.44**

**EXCEPTIONS AND VARIANCES**

**17.44.010 VARIANCE**

A variance of any provision of this title may only be granted in accordance with Section 19.911.

(Ord. 2025 § 3, 2011; Ord. 1907 (Attach. 1), 2002)

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**TITLE 19**

**ZONING**

**CHAPTER 900 LAND USE APPLICATIONS**

**19.908 EXTENSIONS TO EXPIRING APPROVALS**

**19.908.1 Purpose**

The purpose of this section is to provide for an appropriate and efficient review process for extending the time period during which land use approvals are valid and may be utilized.

**19.908.2 Applicability**

A. Approvals Eligible for Extensions

An extension may be requested for any unexpired land use application that was required by Titles 14, 17, or 19 of the Milwaukie Municipal Code and that was approved through a Type I, II, or III review.

B. Approvals Not Eligible for Extensions

An extension pursuant to this section may not be requested for an approved land use application that has expired or where other sections of the municipal code specifically prohibit or limit the length or number of extensions allowed.

**19.908.3 Review Process**

A. General Provisions

1. An extension application must be submitted and approved prior to the expiration date of the approval. An extension application may not be submitted more than 6 months in advance of an expiration date.
2. An extension may be approved up to a maximum of 2 years from the effective date of the extension approval. Additional extensions may be requested. There is no limit to the number of extensions that may be requested or approved. In the case of applications approved under Title 17, an application may be approved up to a maximum of 12 months and only 1 extension request is allowed.
3. If the original application was approved through a Type III review, the Planning Director shall notify the Planning Commission of receipt of an extension application at the same time that public notice is mailed for the application.
4. If an extension application is denied, the applicant may seek approval for the proposed development by resubmitting all applicable land use applications. Such applications are subject to all procedures, approval criteria, and development standards in effect at the time of submission.

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## CHAPTER 1000 REVIEW PROCEDURES

### 19.1001 GENERAL PROVISIONS

#### 19.1001.7 Decisions

##### E. Expiration of Approved Decisions

1. Type I, II, III, and IV land use approvals granted pursuant to this chapter for land use applications submitted on or after May 14, 2011, the effective date of Ordinance #2025, shall expire and become void unless the following criteria are satisfied:
  - a. For proposals requiring any kind of development permit, the development must complete both of the following steps:
    - (1) Obtain and pay for all necessary development permits and start construction within 2 years of land use approval.
    - (2) Pass final inspection and/or obtain a certificate of occupancy within 4 years of land use approval.
  - b. For proposals not requiring development permits, the development must utilize its approvals within 4 years of land use approval.

c. For boundary adjustments and land divisions approved under Title 17 Land Division, evidence of recording of the required instruments must be provided to the city within 2 years of the original approval.

**19.901 INTRODUCTION**

Uses or development that are regulated by Titles 14, 17, and 19 of the Milwaukie Municipal Code shall submit and obtain approval for all required land use applications prior to establishment or construction. Table 19.901 below contains a complete list of the City’s land use applications and the location of the provisions that govern their submittal, review, and approval. It also identifies the review type(s) associated with each application type. The review type determines who is given notice about land use and development proposals, when the City has to make a decision on a land use application, and who makes the final decision. Descriptions of the different review types and the procedures associated with them are located in Chapter 19.1000. Decision makers for each review type are listed in Table 19.1001.5.

Table 19.901		
Land Use Applications		
Application Type	Municipal Code Location	Review Types
Land Divisions:	Title 17	
Final Plat	Title 17	I
Lot Consolidation	Title 17	I
Partition	Title 17	II
Property Line Adjustment	Title 17	I, II
Replat	<del>Title 17</del>	<del>I, II, III</del>
Subdivision	Title 17	<del>III</del> <u>II</u>
Middle Housing Land Division	Title 17	II

**WS 1. 2/20/24**  
**Presentation**

# **Title 17 (Land Division)**

## **Code Amendments**

Presentation to the  
Milwaukie City Council  
Vera Koliass, Senior Planner  
February 20, 2024





- Project goals:
  - Compliance with state law; middle housing
  - Clear and objective standards
  - Simplify review processes
  - Remove redundant or confusing language
  - Reorganize for clarity



- Planning Commission: 1 worksession
- City Council: 1 worksession
- Notification provided to NDAs
- Code Commentary posted with 30-day notice
- Public hearings



## Formatting/redundant language

- Eliminate needless TOC
- Reorganize to provide separate section for Middle Housing Land Division
- Reduce the number of lists in code – rely on checklists



## Review Process and Application Requirements

- Rewrite the section for each land division type
  - Remove Type III review for subdivisions
- Revise language to identify filing deadlines
- Revise language related to extensions



# PROPOSED AMENDMENTS

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## New Language

- Add language related to tracts and easements
  - Includes management responsibilities
- Add language related to “remainder” or “left over” land
  - Includes requirements for future development
  - Eliminates future confusion about minimum density



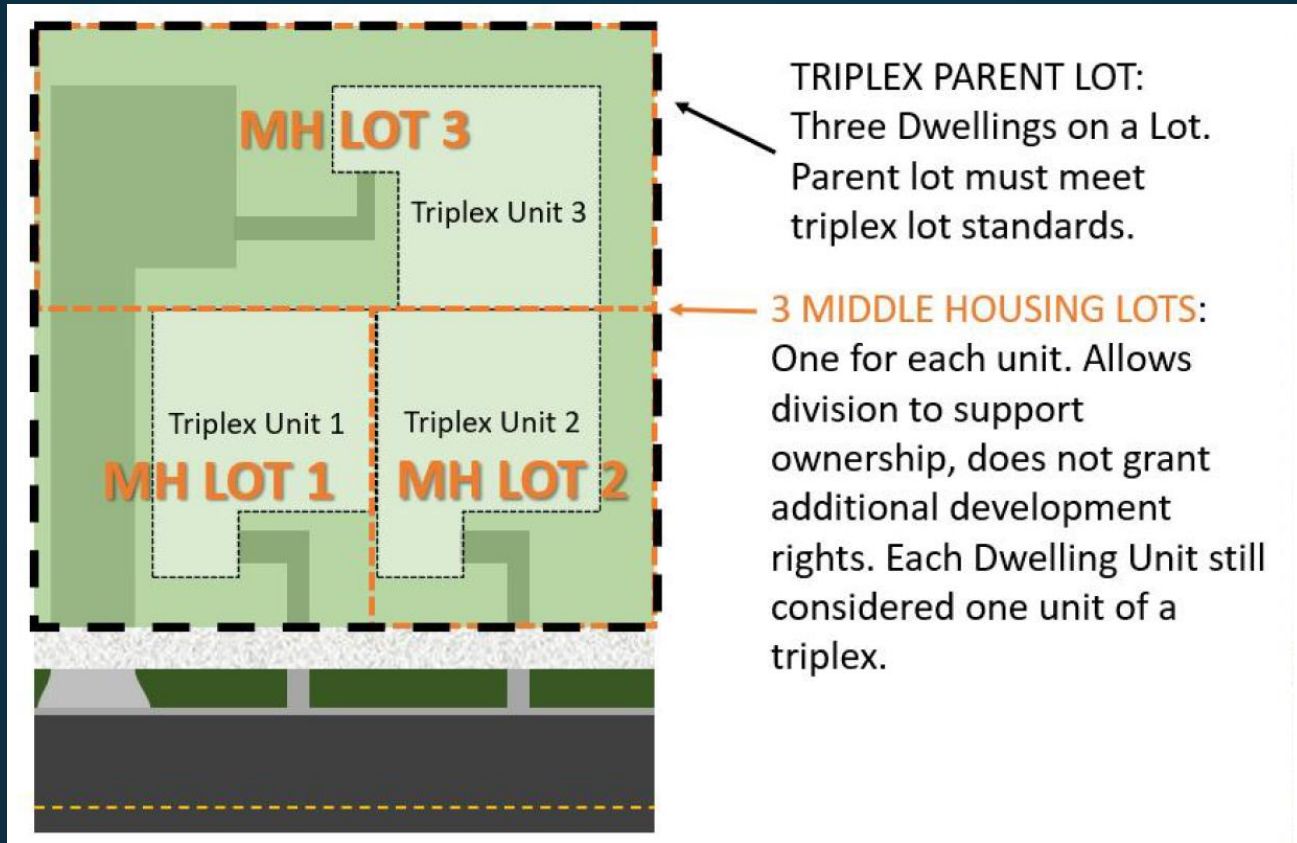
# PROPOSED AMENDMENTS

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Potential partition with left over land

# IDENTIFIED ISSUE: DEVELOPMENT AFTER AN MHL

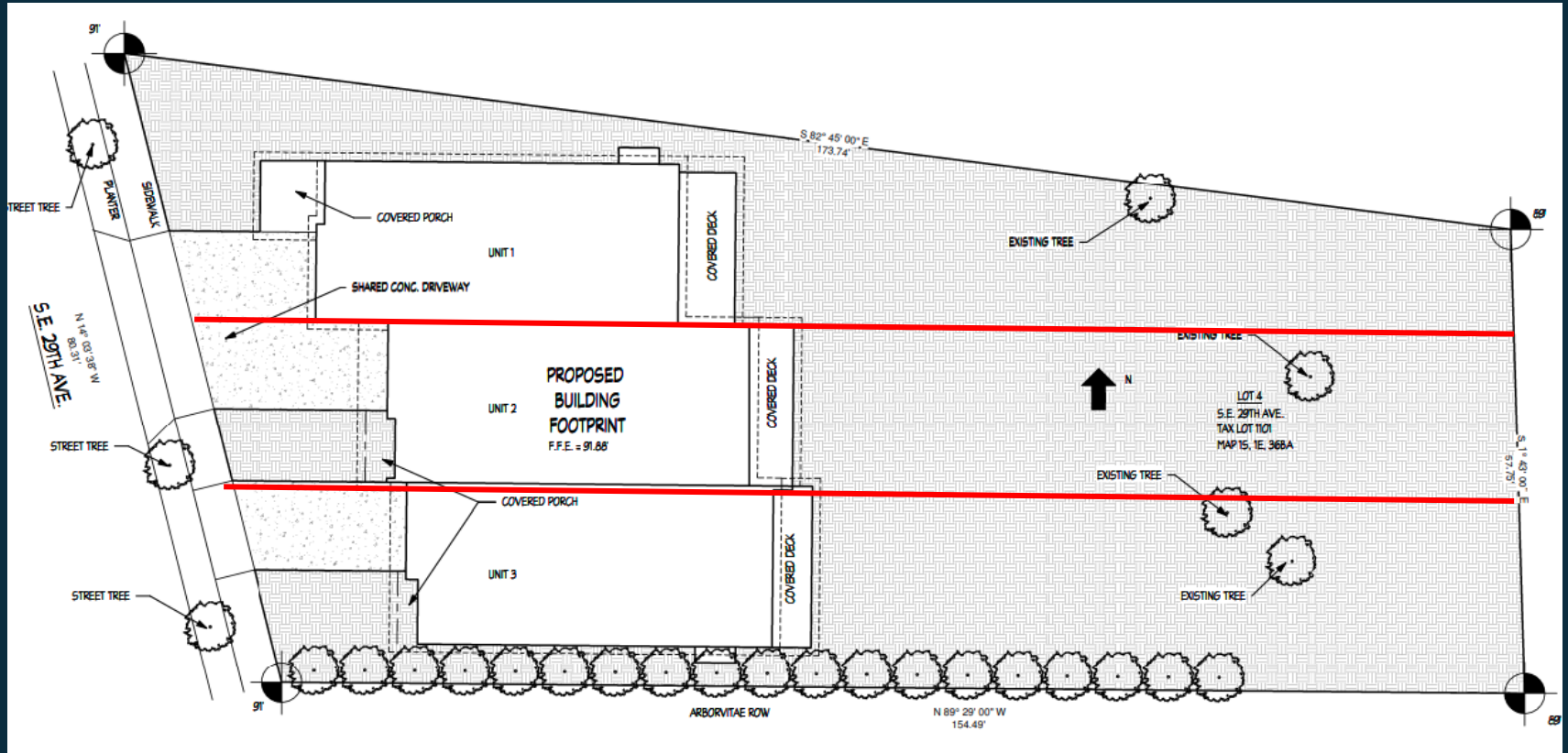


**TRIPLEX PARENT LOT:**  
Three Dwellings on a Lot.  
Parent lot must meet  
triplex lot standards.

**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.

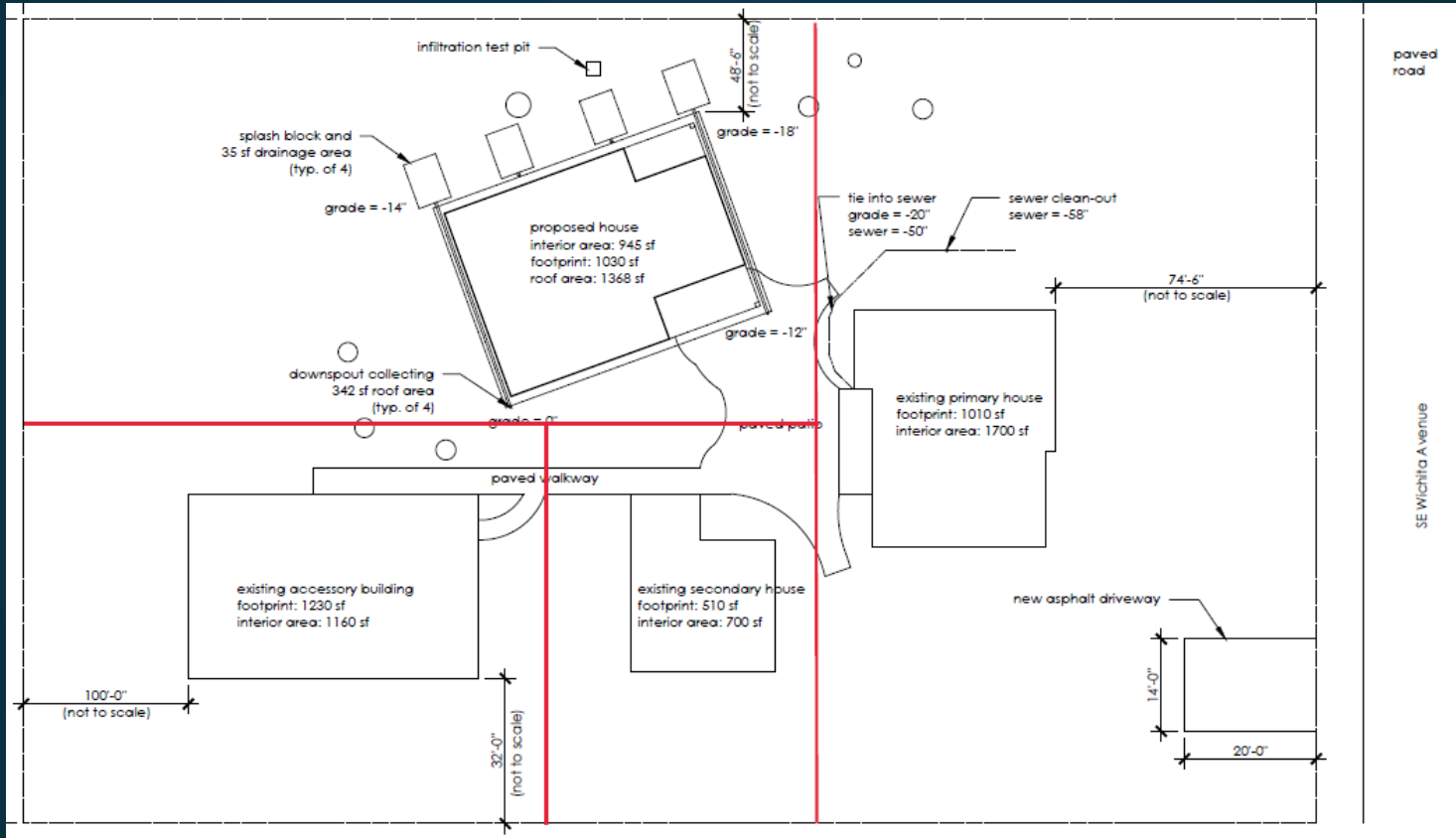


# IDENTIFIED ISSUE: DEVELOPMENT AFTER AN MHL





# IDENTIFIED ISSUE: DEVELOPMENT AFTER AN MHL



**FOR DISCUSSION**

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Any questions about the proposed amendments?

