

**ORDINANCE NO. 1574**

**AN ORDINANCE AMENDING CANBY'S TITLE 16 OF THE CANBY MUNICIPAL CODE ADDING NEWLY CREATED CODE CHAPTER 16.81 MIDDLE HOUSING MODEL ORDINANCE AND MODIFYING EXISTING CHAPTERS 16.04 DEFINITIONS, 16.58 LOT LINE ADJUSTMENT, 16.60 PARTITIONS, 16.68 SUBDIVISIONS FINAL PROCEDURES AND RECORDATION, AND 16.89 APPLICATION AND REVIEW PROCEDURES.**

**WHEREAS**, City staff propose a legislative text amendment adding a new chapter 16.81 Middle Housing Model Ordinance to the Canby Land Development and Planning Ordinance; Title 16 of the Canby Municipal Code (CMC); and modifying existing Chapter 16.04, 16.58, 16.60, 16.68 and 16.89 providing consistency with state law and greater clarity for the city, applicants and the public;

**WHEREAS**, City staff propose legislative text amendments, creating Chapter 16.81 and modifying Chapter 16.04 Definitions; Chapter 16.58 Lot Line Adjustments; Chapter 16.60 Partitions; Chapter 16.68 Subdivision Final Procedures and Recordation; Chapter 16.89 Application and Review Procedures;

**WHEREAS**, the Planning Commission found that the standards and criteria of Section 16.88.170 of the Land Development and Planning Ordinance concerning Text Amendments were met, and forwarded a recommendation of approval to the City Council on a 7-0 vote as specified in their Findings and Final Order; and

**WHEREAS**, the City Council, after reviewing the record of the Canby Planning Commission regarding the subject amendments, concluded that the Planning Commission's recommendation is appropriate as recommended.

**NOW, THEREFORE, THE CANBY CITY COUNCIL ORDAINS AS FOLLOWS:**

- (1) TA 22-02 is hereby approved and the Canby Municipal Code hereby amended as detailed in Exhibits C and D for the Land Development and Planning Ordinance (as directed by the City Council findings and final order);

**SUBMITTED** to the Council and read the first time at a regular meeting thereof on May 18, 2022, ordered posted in three (3) public and conspicuous places in the City for a period of five (5) days, as authorized by the Canby City Charter; and to come up for final reading and action by the Canby City Council at a regular meeting thereof on June 1, 2022 commencing after the hour of 7:30 p.m., in the Council Chambers located at 220 NE 2nd Avenue, Canby, Oregon.

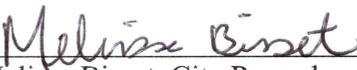
  
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Melissa Bisset, City Recorder

**PASSED** on the second and final reading by the Canby City Council at a regular meeting thereof on June 1, 2022 by the following vote:

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Brian Hodson, Mayor

ATTEST:

  
Melissa Bisset, City Recorder

**Chapter 16.04**

**DEFINITIONS**

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**16.04.010 Grammatical interpretation.**

As used in this title, the masculine includes the feminine and the neuter, and the singular includes the plural with no preference or prejudice intended or implied. (Ord. 740 section 10.1.20 (A), 1984)

**16.04.020 Generally.**

Unless the context requires otherwise, the words and phrases set out in this chapter shall mean as follows. (Ord. 740 section 10.1 .20(B)[part], 1984)

**16.04.030 Abutting-adjoining-adjacent.**

Abutting, adjoining or adjacent means physically touching, having at least one common point or lots separated only by a public street, public right-of-way, or railroad right-of-way. (Ord. 890 section 3, 1993; Ord. 740 section 10.1.20(B)[part], 1984)

**16.04.035 Acceptable site.**

For purposes of siting macro wireless telecommunications systems facilities, any land planned and zoned Highway commercial or Commercial-Manufacturing. (Ord. 981 section 17, 1997, Ord. 1539, 2020)

**16.04.036 Access.**

Access means a way or means of approach to provide pedestrian, bicycle, or motor vehicle entrance or exit to a property. (Ord. 1043 section 3, 2000).

**16.04.037 Access classification.**

Access classification means a ranking system for roadways used to determine the appropriate degree of access management. Factors considered include functional classification, the appropriate local government's adopted plan for the roadway, subdivision of abutting properties, and existing level of access control. (Ord. 1043 section 3, 2000)

**16.04.038 Access connection.**

Access connection means any driveway, street, turnout or other means of providing for the movement of vehicles to or from the public roadway system. (Ord. 1043 section 3, 2000)

**16.04.039 Access management.**

Access management means the process of providing and managing access to land development while preserving the regional flow of traffic in terms of safety, capacity, and speed. (Ord. 1043 section 3, 2000)

**16.04.040 Accessory Dwelling.**

**Accessory dwelling is an interior, attached, or detached residential structure that is used in connection with, or that is accessory to, a single-family dwelling. (Ord. 1514, 2019)**

**16.04043 Accessory structure or use.**

Accessory structure or use means a detached structure or use not intended for human habitation, incidental and subordinate to the main use of the property and which is located on the same lot with the main use such as, but not limited to, garage, carport, tool shed, private greenhouse or utility building. (Ord. 740 section 10.1.20(B)[part], 1984)

**16.04.045 Accessway.**

Accessway means a walkway that provides pedestrian and bicycle passage either between streets or from a street to a building or other destination such as a school, park, or transit stop. Accessways generally include a walkway and additional land on either side of the walkway, often in the form of an easement or right-of-way, to provide clearance and separation between the walkway and adjacent uses. Accessways through parking lots are generally physically separated from adjacent vehicle parking or parallel vehicle traffic by curbs or similar devices and include landscaping, trees, and lighting. Where accessways cross driveways, they are generally raised, paved, or marked in a manner that provides convenient access for pedestrians. (Ord. 1043 section 3, 2000)

**16.04.050 Agriculture.**

Agriculture means the tilling of the soil, the raising of crops, silviculture and horticulture. (Ord. 740 section 10.1.20(B)[part], 1984)

**16.04.060 Alley.**

Alley means a narrow street through a block primarily for vehicular service access to the back or side of properties otherwise abutting another street. (Ord. 740 section 10.1.20(B)[part], 1984)

**16.04.061 Antenna.**

Antenna. Defined in 47 C.F.R. § 1.6002(b). The term includes an apparatus designed for the purpose of emitting radio frequencies (RF) to be operated or operating from a fixed location pursuant to Federal Communications Commission authorization, for the provision of personal wireless service and any commingled information services. For purposes of this definition, the term antenna does not include an unintentional radiator, mobile station, or device authorized under 47 C.F.R. Part 15. (Ord. 1539, 2020)

**16.04.063 Application.**

Application for a land use permit (site and design review, conditional use permit, annexation, zone change, subdivision, etc.) means a package of information that includes:

- A. The application form filled out and signed by the owner;
- B. Site plan and/or narrative describing the proposal;
- C. List of property owners on mailing labels (1" x 2 5/8"); and

D. The application fee. (Ord. 981 section 1, 1997)

**16.04.064 Attached telecommunications facility.**

An existing pole, tower or other structure capable of accommodating a WTS facility antenna, whether originally intended for such use or not. (Ord. 981 section 17, 1997, Ord. 1539, 2020)

**16.04.065 Backhaul network.**

The land lines that connect a telecommunications provider's radio signals to one or more cellular telephone switching offices and/or local or long distance providers, or the public switched telephone network. (Ord. 981 section 17, 1997, Ord. 1539, 2020)

**16.04.066 Bed and Breakfast.**

Bed and Breakfast means any single-family residential dwelling having rooms for rent to travelers or transients for a charge or fee paid, for rental or use for a period of less than thirty (30) days. Additionally, such establishment serving only one meal per day prior to the noon hour. (Ord. 890 section 4, 1993; renumbered due to Ord. 981 amendments)

**16.04.068 Bicycle facilities.**

Bicycle facilities is a general term denoting improvements and provisions made to accommodate or encourage bicycling, including parking facilities and all bikeways. (Ord. 1043 section 3, 2000)

**16.04.070 Billboard.**

Billboard means a sign which has a surface space upon which advertising may be posted, painted, or affixed, and which is generally, although not necessarily, designed for the rental or lease of such sign space for advertising not relating to the use of the property upon which the sign exists. (Ord. 740 section 10.1.20 (B)[part], 1984)

**16.04.080 Boarding, lodging or rooming house.**

Boardinghouse, lodging house or rooming-house means a building where lodging with or without meals is provided for compensation for at least four, but not more than ten guests. Board and care, foster care and similar accommodations are considered boardinghouses for the purposes of this title. (Ord. 740 section 10.1.20(B)[part], 1984)

**16.04.090 Building.**

Building means a structure built for the shelter or enclosure of persons, animals, chattels or property of any kind. (Ord. 740 section 10.1 .20(B)[part], 1984)

**16.04.100 Building line.**

Building line means a line on a plat indicating the limit beyond which buildings or structures may not be erected. (Ord. 740 section 10.1.20 (B)[part], 1984)

**16.04.105 Cell Coverage Area.**

A geographic area where a single radio transmission sending/receiving station (per provider) and the equipment necessary to connect these radio calls to land lines or other cells are located. (Ord. 981 section 17, 1997, Ord. 1539, 2020)

**16.04.110 Central business district (CBD).**

Central business district (CBD) means the downtown area of Canby, defined generally by zoning or designation on the Land Use Map of the Comprehensive Plan for downtown commercial development. (Ord. 740 section 10.1.20 (B)[part], 1984)

**16.04.120 City.**

City means the City of Canby, Oregon. (Ord. 740 section 10.1.20(B)[part], 1984)

**16.04.125 City Planner.**

City Planner means the person appointed by the city administrator as supervisor of the day-to-day operations of Canby's city planning functions, or another staff person he or she designates for a particular function. Also referred to as "Planning Director." (Ord. 890 section 5, 1993; Ord. 1080, 2001)

**16.04.127 Collocation.**

Collocation. Defined in 47 C.F.R. § 1.6002(g). Term describes: (1) mounting or installing an antenna facility on a preexisting structure, and/or (2) modifying a structure for the purpose of mounting or installing an antenna facility on that structure. "Collocate" has a corresponding meaning. A collocation includes supporting ancillary equipment that is required to operate the collocated antennas. (Ord. 1539, 2020)

**16.04.128 Commercial Recreation Uses.**

Commercial recreation uses means uses intended to provide for gymnastics, tennis, racquetball and other sport-related centers that require oversized indoor space and facilities. (Ord. 960, section 1, 12/18/96)

**16.04.130 Commission.**

Commission means the Planning Commission of the city. (Ord. 740 section 10.1.20(B)[part], 1984)

**16.04.135 Conditionally suitable site.**

For purposes of siting wireless macro telecommunications systems facilities, any land planned and zoned Residential / Commercial or Downtown Commercial. (Ord. 981 section 17, 1997, Ord. 1539, 2020)

**16.04.137 Corner clearance.**

Corner clearance means the distance from an intersection of a public or private road to the nearest access connection, measured from the closest edge of the pavement of the intersecting road to the closest edge of the pavement of the connection along the traveled way. (Ord. 1043 section 3, 2000)

**16.04.140 Council.**

Council means the City Council of Canby, Oregon. (Ord. 740 section 10.1.20(B)[part], 1984)

**16.04.145 Cross access.**

Cross access means a service drive providing vehicular access between two or more contiguous sites so the driver need not enter the public street system. (Ord. 1043 section 3, 2000)

**16.04.150 Curb line.**

Curb line means a line along the edge of the curb nearest the street lot line, not necessarily the right-of-way line. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.155 Day care facility.**

Day care facility means any facility that provides day care to children, including a day nursery, nursery school group, home of a family day care provider, or similar unit operating under any name, but not including any:

- A. Facility providing care that is primarily educational, unless provided to a preschool child for more than four hours a day.
- B. Facility providing care that is primarily supervised training in a specific subject, including but not limited to dancing, drama, music or religion.
- C. Facility providing care that is primarily an incident of group athletic or social activities sponsored by or under the supervision of an organized club or hobby group.
- D. Facility operated by a school district, political subdivision of this state, or a governmental agency.
- E. Residential facility licensed under ORS 443.400 to 443.455.
- F. Babysitters. (Ord. 890 section 6, 1993)

**16.04.158 Detached telecommunications facility.**

A pole, tower or other structure designed and intended to support telecommunications antennas and other equipment. (Ord. 981 section 17, 1997, Ord. 1539, 2020)

**16.04.160 Development plan.**

Development plan means any plan adopted by the Planning Commission for the guidance of growth and improvement of the city, including modifications or refinements which may be made from time to time. (Ord. 740 section 10.1.20(B)[part], 1984)

**16.04.170 Dwelling, duplex-dwelling, two-family.**

Duplex dwelling or two-family dwelling means a building containing two dwelling units located on the same lot or parcel. (Ord. 740 section 10.1.20(B)[part], 1984; Ord 1514, 2019)

**16.04.180 Dwelling, multi-family.**

Multi-family dwelling means a building containing three or more dwelling units located on the same lot or parcel. (Ord. 740 section 10.1.20(B) [part], 1984; Ord. 1514, 2019)

**16.04.190 Dwelling, single-family.**

Single-family dwelling means a detached building containing one dwelling unit. Manufactured homes shall not be considered to be single-family dwellings for the purposes of this chapter unless found to meet all city building, mechanical, electrical and other construction codes applicable to conventional units built on the site. (Ord. 740 section 10.1.20 (B)([part], 1984; Ord. 1514, 2019)

**16.04.195 Dwelling, Townhouse (Common Wall).**

Means single-family attached common wall dwellings with each dwelling unit located on a separate lot. There shall be no more than six attached townhouse dwelling units in a row, and the combined single-family units shall not exceed 120 feet in length. (Ord. 1514, 2019)

**16.04.200 Dwelling unit.**

Dwelling unit means one or more rooms designed for occupancy by one family and not having more than one cooking facility. (Ord. 740 section 10.1.20(B)[part], 1984)

**16.04.210 Easement.**

Easement means a grant of the right to use an area of land for specific purposes. (Ord. 740 section 10.1 20(B)[part], 1984)

**16.04.212 Eco-roof**

Eco-roof means a vegetated roof constructed for water quality and quantity control. Eco-roofs are vegetated roof covers with growing media and plants taking the place of bare membrane, gravel ballast, shingles or tiles. The number of layers and the layer placement vary from system to system and roof type, but all eco-roofs include a single to multi-ply waterproofing layer, drainage, growing media and the plants, covering at least 50% of the roof deck surface. (Ord. 1338, 2010)

**16.04.215 Equipment shelters.**

For purposes of siting wireless telecommunications systems facilities, the buildings, structures, cabinets or vaults used to house and protect the equipment necessary to connect/relay radio signals from cell site to cell site and to land line systems. Associated equipment such as air conditioning or emergency generators shall be included in this definition of equipment shelters. (Ord. 981 section 17, 1997)

**16.04.218 Façade.**

Façade means an exterior face of a building. (Ord 1296, 2008)

**16.04.220 Family.**

Family means an individual or two or more individuals related by blood, marriage, adoption, or legal guardianship living together in a dwelling unit in which meals or lodging may also be provided for not more than two additional individuals excluding servants; or a group of not more than five individuals, excluding servants, who need not be related by blood, marriage, adoption or legal guardianship living together in a dwelling unit. Five or fewer handicapped persons, along with those individuals charged with caring for such persons and sharing a common dwelling unit, shall be considered to be a family for purposes of this title. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.221 Floor area ratio.**

Floor area ratio means a method of calculating structural massing on a lot. Floor Area Ratio is expressed as a ratio of x divided by y, where x is equal to the sum of the gross floor area of all stories above grade plane, as measured to the outside surface of exterior walls, and y is equal to the lot area net of any publicly dedicated right-of-way or land. Detached accessory structures and detached or attached parking structures above grade plane are not included in the gross floor area calculation. (Ord 1296, 2008)

**16.04.222 Foster Home,**

“Foster home” means any home maintained by a person who has under the care of the person in the home any child under the age of 21 years unattended by the child’s parent or guardian, for the purpose of providing the child with care, food and lodging, but does not include items listed in ORS 418.625 a-f.(Ord. 1514, 2019)

**16.04.223 Frontage road.**

Frontage road means a public or private drive which generally parallels a public street between the right-of-way and the front building setback line. The frontage road provides access to private properties while separating them from the arterial street (see also service roads). (Ord. 1043 section 3, 2000)

**16.04.225 FCC.**

The Federal Communications Commission; the federal agency that regulates interstate and international communications by radio, television, wire, satellite and cable. (Ord. 981 section 17, 1997)

**16.04.228 Grade plane.**

Grade plane means the average of finished ground level adjoining the building at exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or, where the lot line is more than 6 feet from the building, between the building and a point 6 feet from the building. (Ord 1296, 2008)

**16.04.230 Height of building.**

Height of building means the vertical distance from the grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the height of the highest gable of a pitch or hip roof. (Ord. 740 section 10.1.20(B) [part], 1984; Ord. 1514, 2019)

**16.04.240 Home occupation.**

Home occupation means a lawful activity commonly carried on within a dwelling by members of the family occupying the dwelling with not more than one non-resident employee being engaged, provided that:

- A. The residential character of the building is maintained;
- B. The activity occupies less than one-quarter of the ground floor area of the building;
- C. The activity is conducted in such a manner as not to give an outward appearance nor manifest any characteristic of a business in the ordinary meaning of the term nor infringe upon the rights of neighboring residents to enjoy the peaceful occupancy of their homes. Business visitors to the premises shall not exceed eight (8) per day and delivery trucks shall not exceed one (1) per day;
- D. The occupation shall not be carried on in an accessory building of the residence where the building is larger than six hundred (600) square feet;
- E. No signs are permitted, except for a single unilluminated nameplate not to exceed two (2) square feet in area;
- F. All home occupations require a city business license. (Ord. 890 section 7, 1993; Ord. 830 section 1, 1989; Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.250 Hotel.**

Hotel means a building in which lodging is provided for more than ten guests for compensation and in which no provision is made for cooking in the rooms. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.253 Impervious surface**

Impervious surface means a surface area that creates a barrier to or hinders the entry of water into the soil in comparison with natural conditions prior to development, thus causing water to run off the surface in greater quantities or at an increased rate of flow. Impervious surfaces include, but are not limited to, buildings, paved parking areas and driveways, roads, sidewalks, patios, packed earth, and oiled surfaces. Open, uncovered retention/detention facilities, green roofs, and permeable surfacing materials shall not be considered impervious surfaces. Roof surfaces are also considered 'pervious' when 100% of the annual average roof runoff is captured and reused on-site for irrigation or approved interior uses. (Ord. 1338, 2010)

**16.04.255 Infill homes.**

Infill homes mean existing and new single family dwellings, manufactured homes, two-family dwellings, duplexes and triplexes on lots that are located in an R-1 or R-1.5 zoning district, and that have existing homes on two adjacent sides. Each adjacent home must be within 25 feet of the common lot line with the infill homes and have pre-existed for at least 5 years (dated from the existing homes final building permit approval). (Ord. 1107, 2002; Ord 1237, 2007; Ord 1323, 2010)

**16.04.257 Infiltration**

Infiltration means the process or rate at which water percolates from the land surface into the ground. Infiltration is also a general category of best management practices (BMP) designed to collect runoff and allow it to flow through the ground for pollutant removal. (Ord. 1338, 2010)

**16.04.260 Intersection.**

Intersection means the place where two streets meet or cross. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.265 Joint access (or shared access).**

Joint access (or shared access) means a driveway connecting two or more contiguous sites to the public street system. (Ord. 1043 section 3, 2000)

**16.04.270 Kennel.**

Kennel means a place where four or more dogs more than four months of age are kept on one lot or contiguous lots under one ownership. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.275 Lattice tower.**

For purposes of siting wireless telecommunications systems facilities, a telecommunications support structure which consists of metal crossed strips or bars and which supports antennas and related equipment for one or more telecommunications provider. (Ord. 981 section 17, 1997, Ord. 1539, 2020)

**16.04.280 Loading space.**

Loading space means an off-street space for the temporary parking of a commercial vehicle or truck while loading or unloading merchandise or materials and which space has access to a street. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.290 Lot.**

Lot means a single parcel or tract of land for which a legal description has been filed in the office of the county recorder or the boundaries of which are shown on a recorded subdivision plat. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.300 Lot area.**

Lot area means the total horizontal area within the boundary lines of a lot, excluding the access strip servicing a flag lot. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.310 Lot, corner.**

Corner lot means a lot abutting two intersecting streets other than an alley, provided that the streets do not intersect at an angle greater than one hundred thirty-five degrees. (Ord. 740 section 10.1.20 (B) [part], 1984)

**16.04.315 Lot depth.**

Lot depth means the average distance from the front lot line to the rear lot line. (Ord. 1043 section 3, 2000)

**16.04.318 Lot, flag.**

A flag lot is a lot that does not meet minimum frontage requirements and where access to the public road is by a narrow, private right-of-way. (Ord. 1043 section 3, 2000)

**16.04.320 Lot front.**

Lot front means the street lot line on a corner lot which the principal use or structure is facing. If no such use or structure exists, it means the street side having the shorter length. If the sides are of approximately equal length, the City Planner may designate the lot front. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.321 Lot frontage.**

Lot frontage means that portion of a lot extending along a street right-of-way line. (Ord. 1043 section 3, 2000)

**16.04.330 Lot, interior.**

Interior lot means a lot other than a corner lot. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.340 Lot line.**

Lot line means the property line bounding a lot. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.350 Lot line, interior.**

Lot line, interior means all lot lines which separate one parcel from another, other than street lot lines. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.360 Lot line, street.**

Street lot line means a lot line that separates the lot from a street other than an alley. The street lot line is not generally the same as the curb line. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.370 Lot, through.**

Through lot means a lot having frontage on two parallel or approximately parallel streets other than alleys. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.380 Lot width.**

Lot width means the average width of a lot when measured at the front and rear setback lines for a principal use. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.383 Low impact development**

Low impact development (LID) means a stormwater management and land development strategy applied at the parcel, multiple parcel and/or subdivision level that emphasizes conservation and use of on-site natural features integrated with engineered, small-scale controls to more closely mimic predevelopment hydrologic functions. LID tools are designed to reduce environmental impacts of development, such as increased storm water runoff due to impervious areas, poor water quality and inconsistent water quantity in streams and rivers. LID techniques control storm water runoff volume and reduce pollutant loadings to receiving waters. Not all sites are suitable for LID. Considerations such as soil permeability, depth of water table and slope should be considered, in addition to other factors. LID techniques may not completely replace the need for conventional stormwater controls. (Ord 1338, 2010)

**16.04.385 Lowest floor.**

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this title found in Chapter 16.40 (Hazard Overlay Zone). (Ord. 804 section 2(A), 1987)

**16.04.390 Manufactured home (Mobile Home)**

"Manufactured home" means a structure constructed for movement on public highways that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction. This definition includes manufactured dwelling, manufactured home, mobile home, and residential trailer as those terms are defined in ORS 446.003. A manufactured home shall be certified to meet the 1976 HUD Standards, as amended. The definition does not include recreational vehicles, travel trailers, park trailers or structures or vehicles which have a state of Oregon or U.S. Government label designating them as a recreational vehicle. It also does not include buildings or structures subject to the Structural Specialty Code adopted pursuant to ORS 455.100 through 455.450. (Ord 1514, 2019)

**16.04.400 Manufactured (Mobile) home park.**

Manufactured (Mobile) home park means a tax lot or lots where two or more manufactured homes are used for human occupancy and where the space is available for rent or lease. (Ord. 740 section 10.1.20(B) [part], 1984; Ord. 1514, 2019)

**16.04.410 Manufactured (Mobile) home subdivision.**

Manufactured (Mobile) home subdivision means a subdivision of property where individual lots are available for the placement of manufactured homes. (Ord. 740 section 10.1.20(B) [part], 1984; Ord. 1514, 2019)

**16.04.420 Modular home.**

Modular home means a residential structure constructed of one or more prefabricated parts which meet all city building, plumbing, mechanical, electrical and other construction codes applicable to conventional units which might be built on the site. (Ord. 740 section 10.1.20 (B) [part], 1984)

**16.04.425 Monopole.**

For purposes of siting wireless telecommunications systems facilities, a WTS support structure which consists of a single tapered steel pole and which supports antennas and related equipment for one or more WTS provider. (Ord. 981 section 17, 1997)

**16.04.430 Motel.**

Motel means a building or group of buildings on the same lot containing guest units with separate and individual entrances and consisting of individual sleeping quarters, detached or in connected rows, with or without cooking facilities, for rental. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.433 Nail Salons.**

Establishments primarily engaged in providing nail care services, such as manicures, pedicures, and nail extensions. (Ord. 1514, 2019)

**16.04.435 Neighborhood activity center.**

Neighborhood activity center means an attractor or destination for residents of surrounding residential areas. Includes, but is not limited to, existing or planned schools, parks, shopping areas, transit stops, and employment areas. (Ord. 1043 section 3, 2000)

**16.04.438 Nonconforming access features.**

Nonconforming access features means features of the property access that existed prior to the date of ordinance adoption and do not conform with the requirements of this ordinance. (Ord. 1043 section 3, 2000)

**16.04.440 Nonconforming structure, lot or use.**

Nonconforming structure, lot or use means a structure, lot or use which lawfully existed prior to the adoption of zoning requirements for the zone in which it is located and with which it does not comply. (Ord. 740 section 10.1.20(B)[part], 1984)

**16.04.445 Nursing home**

Means any institution or facility defined as a long term care facility for licensing purposes under state statute or the rules of the Department of Human Services, including a long term care facility operated as part of a dual facility. "Dual facility" means a facility that operates both a hospital and a long term care facility on the same campus. (ORS 678.710) (Ord. 1514, 2019)

**16.04.450 Parent parcel.**

Parent parcel means a lot or parcel of land from which other parcels or lots are divided. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.460 Parking space.**

Parking space means a rectangle in the dimensions as set forth in Division III of this title together with maneuvering and access space required for a conventional automobile to park within the rectangle. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.470 Partition.**

Partition means to divide an area or tract of land into two or three parcels within the calendar year when such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of such year. Partitioned land does not include any adjustment of a lot line by the relocation of a common boundary where an additional parcel is not created and where the existing parcel reduced in size by the adjustment is not reduced below the minimum lot size. (Ord. 1514, 2019)

**16.04.480 Pedestrian way.**

Pedestrian way means a right-of-way for pedestrian traffic. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.490 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. 740 section 10.1.20 (B) [part], 1984)

**16.04.500 Planning Commission.**

Planning Commission means the Planning Commission of the City of Canby, Oregon. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.510 Plat.**

Plat means the map or drawing on which the subdivider's plan of subdivision is presented and which he submits for approval and intends in final form to record. Plat includes preliminary, tentative and final plats. (Ord. 740 section 10.1.20(B)[part], 1984)

**16.04.512 Porches, covered.**

Covered porches must not be enclosed by walls that are more than 42 inches in height, for 50 percent or more of their perimeter. (Ord. 1107, 2002)

**16.04.514 Preapplication conference.**

Preapplication conference means a meeting of the representatives of the city departments and other affected agencies, as determined by the City, to review and provide initial input on land use applications or other proposals.—. Pre-application conference applications may be required for Type II, III and IV applications. Pre-application conference meeting reports prepared by the city shall expire one-year after the pre-application conference meeting. (Ord. 1237, 2007)

**16.04.515 Preferred site.**

For purposes of siting wireless telecommunications systems facilities, any land planned and zoned Light Industrial or Heavy Industrial. (Ord. 981 section 17, 1997)

**16.04.516 Public facility, major.**

A major public facility is any public service improvement or structure, other than transportation projects, developed by or for a public agency that is not defined as a minor public facility. Transportation projects are covered by Section 16.08.130. (Ord. 1237, 2007)

**16.04.517 Public facility, minor.**

A minor public facility includes the following public service improvements or structures developed by or for a public agency:

- A. Minor utility structures, except substations, but including poles, lines, pipes, telecommunications facilities or other such facilities.
- B. Sewer, storm drainage, or water system structures except treatment plants or reservoirs, but including pump stations, manholes, valves, hydrants or other portions of the collection, treatment and distribution systems located within public property or public easements.
- C. Street improvements within existing developments including sidewalks, curbs, gutters, catch basins, paving, signs and traffic control devices and street lights.
- D. Transit improvements, such as shelters or pedestrian and bicycle safety improvements, located within public right of way or public easements or on public property.
- E. School improvements which will not increase the capacity of the school nor create significant additional traffic or other impacts on the surrounding neighborhood.
- F. Park improvements which will not create significant additional motor or foot traffic impact on the surrounding neighborhood. (Ord. 1237, 2007)

**16.04.519 Reasonably direct.**

A reasonably direct route does not deviate unnecessarily from a straight line or is a route that does not involve a significant amount of out-of-direction travel for likely users. (Ord. 1043 section 3, 2000; Ord. 1237, 2007)

**16.04.520 Recommendation.**

Recommendation includes any staff report or report from the Planning Commission to the City Council. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.525 Residential facility**

Means a residential care, residential training or residential treatment facility, as those terms are defined in ORS 443.400, that provides residential care alone or in conjunction with treatment or training or a combination thereof for six to fifteen individuals who need not be related. Staff persons required to meet licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential facility. (ORS 197.660)(1)) Under ORS 197.667(4), the city may require an applicant proposing to site a residential facility to supply the city with a copy of the entire application and supporting documentation for state licensing of the facility except for information that is exempt from public disclosure. (Ord. 1514, 2019)

**16.04.527 Residential home**

Means a residential treatment or training home, as defined in ORS 443.400, a residential facility registered under ORS 443.480 to 443.500 or an adult foster home licensed under ORS 443.705 to 443.825 that provides residential care alone or in conjunction with treatment or training or a combination thereof for five or fewer individuals who need not be related. Staff persons required to meet licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential home. (ORS 197.660(2)) (Ord. 1514, 2019)

**16.04.530 Right-of-way.**

Right-of-way means the area between the boundary lines of a street or other easement. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.540 Roadway.**

Roadway means the portion or portions of a street right-of-way developed for vehicular traffic. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.545 Safe and convenient bicycle and pedestrian routes.**

Safe and convenient bicycle and pedestrian routes:

A. Are reasonably free from hazards; and

B. Provide a reasonably direct route of travel between destinations, considering that the optimum travel distance is one-half mile for pedestrians and three miles for bicyclists. (Ord. 1043 section 3, 2000)

**16.04.547 Self Storage Unit/Ministorage Warehouse (NAICS 531130)**

Establishments primarily engaged in renting or leasing space for self-storage. These establishments provide secure space (i.e., rooms, compartments, lockers, containers, or outdoor space) where clients can store and retrieve their goods.

**16.04.550 Setback.**

Setback means a distance which a structure is required to be set back from a lot line. Where specified in this title, some setbacks are measured from curbs or projected curb lines rather than lot lines. Decks 30 inches or less above grade are exempt from setback standards. (Ord. 830 section 2, 1989; Ord. 740 section 10.1.20(B) [part], 1984; Ord. 955 section 1, 1996; Ord. 1514, 2019)

**16.04.560 Sidewalk.**

Sidewalk means a pedestrian walkway with permanent surfacing to city standards. (Ord. 740 section 10.1.20(B)[part], 1984)

**16.04.565 Stealth design.**

Stealth design is a variety of techniques used to disguise or mitigate the visual presence of telecommunications support structures, antennas, and other equipment. Including, but not limited to: screening by mature trees (75 percent or more of the pole beneath the tree canopy), mimicking common features of the urban landscape (light poles, church steeples, trees, etc.), painting antennas to match the color of supporting building walls, or roof mounting behind parapets. (Ord. 981 section 17, 1997, Ord. 1539, 2020)

**16.04.567 Story above grade plane.**

Story above grade plane means any story having its finished floor surface entirely above grade plane, except that a basement shall be considered as a story above grade plane where the finished surface of the floor above the basement is either (1) more than 6 feet above grade plane, or (2) more than 12 feet above the finished ground level at any point. (Ord 1296, 2008)

**16.04.570 Street.**

Street means the entire width between the right-of-way line of every way which provides for public use for the purpose of vehicular and pedestrian traffic, and the placement of utilities and including the terms road, highway, lane, place, avenue, alley, or other similar designations.

A. Alley means a narrow street through a block primarily for vehicular service access to the back or side of properties otherwise abutting on another street.

B. Arterial means a street of considerable continuity which is primarily a traffic artery for intercommunication between large areas.

C. Collector means a street supplementary to the arterial street system and a means of intercommunication between this system and smaller areas used to some extent for through traffic and to some extent for access to abutting properties.

D. Neighborhood connector means a street supplementary to the collector street system providing local access to adjacent properties as well as movement into or out of a neighborhood or between neighborhoods.

E. Cul-de-sac (dead-end street) means a short street having one end open to traffic and being terminated by a vehicle turnaround.

F. Half-street means a portion of the width of a street, usually along the edge of a subdivision, where the remaining portion of the street could be provided in another subdivision.

G. Marginal access or frontage street means a minor street parallel and adjacent to a major arterial street providing access to abutting properties, but protected from through traffic.

H. Minor street means a street intended exclusively for access to abutting properties. (Ord. 740 section 10.1.20(B) [part], 1984; Ord. 1043 section 3, 2000)

I. Green street means a street that has been designed to integrate a system of stormwater management within its right of way. Green streets are intended to reduce the amount of runoff that is piped directly to the city stormwater system and/or streams and rivers. Green streets make the best use of the street tree canopy and natural filtration and drainage systems for stormwater interception and provide temperature mitigation and air quality improvements. (Ord. 1338, 2010)

**16.04.580 Structural alteration.**

Structural alteration means any change in the supporting members of a structure, including the supporting parts of foundations, bearing walls or partitions, columns, beams, girders, or the roof. (Ord. 740 section 10.1.20(B)[part], 1984)

**16.04.590 Structure.**

Structure means that which is built or constructed. Structure means an edifice or building of any kind or any piece of work artificially built up or composed of parts joined in some manner and which requires a location on the ground. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.595 Stub-out (or stub street).**

Stub-out (or stub street) means a portion of a street or cross access drive used as an extension to an abutting property that may be developed in the future. (Ord. 1043 section 3, 2000)

**16.04.600 Subdivide land.**

Subdivide land means to divide a parcel of land into four or more lots in a given calendar year for the purpose of transfer of ownership or building development, whether

immediate or future, when such parcel exists as a unit or contiguous units under a single ownership. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.610 Subdivision.**

Subdivision means either an act of subdividing land or tract of land subdivided as defined in this chapter. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.615 Traffic Impact Analysis.**

Traffic Impact Analysis A comprehensive traffic analysis of a development proposal which includes trip generation, analysis of access/egress, accident analysis, intersection analysis, and traffic flow analysis. (Ord. 1019 section 22, 1999)

**16.04.620 Trailer coach.**

Trailer coach means a trailer or motor home not certified as meeting the HUD 1976 standards or as may be amended for design and construction of a mobile home. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.630 Trailer park.**

Trailer park means a tax lot or lots where space is rented or leased for the location of two or more trailer coaches, or some combination of mobile homes and trailer coaches for human habitation. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.635 Trip generation study.**

Trip Generation Study means an analysis of the number of vehicle trips generated by a development proposal. Trip generation for commercial/industrial/residential/ institutional projects are estimated through the Institute of Transportation Engineers' manual. The results of the trip generation study will determine the need for a Traffic Impact Analysis. If the trip generation study determines the use will generate more than 100 vehicle trips per day, the City Traffic Engineer may require a Traffic Impact Analysis. (Ord. 1019 section 23, 1999)

**16.04.640 Urban Growth Boundary (UGB)**

Urban Growth Boundary (UGB) means the area specifically delineated in the city's comprehensive plan as being already urbanized or available for urban development. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.650 Urbanizable.**

Urbanizable is the term applied to property which is within the city's Urban Growth Boundary and which is planned for eventual urban development. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.660 Use.**

Use means the purpose for which land or a structure is designed, arranged, or for which it is occupied or maintained. (Ord. 740 section 10.1.20 (B) [part], 1984)

**16.04.666 Vicinity.**

Vicinity means nearby; within the same neighborhood. It should be noted that in applying the criteria of this chapter, the term vicinity will be applied to a larger area when warranted by a large project or a project which is expected to have an impact on a large area. (Ord. 805 section 1, 1987)

**16.04.670 Vision clearance area.**

Vision clearance area means the triangle area at the intersection of two streets, a driveway and a street, or a street and a railroad, two sides of which are measured from the corner intersection of the existing or proposed curb lines to a distance specified in this title. The third side of the triangle is a line across the corner of the lot joining the ends of the other two sides. Where the curb lines at intersections have rounded corners, the curb lines will be extended in a straight line to their points of intersection. No plantings, structures, or temporary or permanent obstructions shall be located within a vision clearance area, extending from two and one-half to ten feet above the curb or street elevation. Except, however, that one tree trunk not greater than eighteen inches in diameter shall be permitted within a vision clearance area. (Ord. 830 section 3, 1989; Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.672 Walkway.**

Walkway means a hard-surfaced area intended and suitable for pedestrians, including sidewalks and the surfaced portions of accessways. (Ord. 1043 section 3, 2000)

**16.04.675 Wireless telecommunications facilities.**

Wireless Telecommunications Facilities means the site, structures, equipment and appurtenances used to transmit, receive, distribute, provide or offer wireless telecommunications services. This includes, but is not limited to antennas, poles, towers, cables, wires, conduits, ducts, pedestals, vaults, buildings, electronics and switching equipment. (Ord. 981 section 17, 1997, Ord. 1539, 2020)

**16.04.676 Wireless Telecommunications**

Wireless Telecommunications means the system that uses radio frequency, infrared, microwave or other types of electromagnetic or acoustic waves to transmit data, voice and information. (Ord. 1539, 2020)

**16.04.680 Yard.**

Yard means an open space on a lot which is unobstructed from a point two and one-half feet above the general ground level of the graded lot upward, except as otherwise provided in this title. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.690 Yard, interior.**

Interior yard means a yard lying between the nearest point of a building and measured horizontally to an interior lot line. (Ord. 1296; 2008; Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.700 Yard, rear.**

Rear yard means a yard lying to the rear of the principal building on the lot and generally opposite the lot front. (Ord. 740 section 10.1.20 (B) [part], 1984)

**16.04.710 Yard, street.**

Street yard means a yard lying between the nearest point of a building and the street and measured horizontally to the street lot line. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.715 Zero-lot line development.**

Zero-lot line development means detached dwellings required to have a side yard setback on only one side. (Ord. 1111 section 4, 2003)

Chapter 16.58

**LOT-PROPERTY** LINE ADJUSTMENT

Sections:

**16.58.010** Definition.

~~16.58.010~~ Designated.

16.58.020 Application and Process.

16.58.030 Review by Planner and Engineer.

16.58.040 Approval procedure – City Planner responsibility.

16.58.050 Approval procedure – Commission responsibility.

16.58.060 City liability - compliance.

**16.58.010** Definition.

~~Per Oregon Revised Statute 92.010(12), "Property line adjustment" means a relocation or elimination of all or a portion of the common property line between abutting properties that does not create an additional lot or parcel.~~

~~16.58.010~~ Designated.

~~The relocations of one or more property lines between lots or parcels where no additional lots or parcels will result constitutes a lot line adjustment rather than a partition or subdivision. The procedure to be followed in such cases is as set out in this chapter. (Ord. 740 section 10.4.20 [part], 1984)~~

**16.58.020** Application and Process.

Property Line Adjustments are processed as a Type I application and are reviewed as administrative actions with clear and objective standards. Application procedures shall be as described in Chapter 16.89. (Ord. 740 section 10.4.20(A), 1984; Ord. 981 section 8, 1997; Ord. 1080, 2001)

**16.58.030** Review by Planner and Engineer.

The City Planner and City Engineer shall review the proposed lot-property line adjustment and shall determine whether the following criteria have been met:

A. Each of the remaining parcels and any structures located thereon shall be in full compliance with all regulations of this title, including the setback requirements of Division III. Except, however, that lot line adjustments are permitted on nonconforming lots and lots with nonconforming structures provided that the nonconforming lots and structures will be no less in conformity as a result of the lot line adjustment.

B. No new lots or parcels will be created as a result of the lot-property line adjustment without receiving approval as a partition or subdivision.

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C. If the City Planner or city engineer deems it necessary to assure the accuracy of recorded information, a survey may be required of the applicant. Such a survey will be at the applicant's cost.

D. Lot-Property line adjustments shall not be permitted where the result will be the creation of additional building sites in known hazardous locations or where the appropriate development or extension of public facilities will be impaired as a result. (Ord. 740 section 10.4.20(B), 1984)

**16.58.040040 Approval procedure – City Planner responsibility.**

The City Planner is authorized to approve lot-property line adjustments in compliance with the requirements of section 16.58.030030. In any case where the City Planner determines that the requirements of section 16.58.030-030 cannot or may not be met, the application shall be scheduled for the consideration of the commission, with a recommendation from staff. In any case where the City Planner determines that a property line adjustment will significantly alter the design and appropriate development of a subdivision or partition which has previously been approved by the city or other nearby property, the City Planner shall schedule the application for consideration by the commission. (Ord. 740 section 10.4.20(C), 1984)

**16.58.050050 Approval procedure – Commission responsibility.**

The commission shall review the information submitted and shall make a decision approving, modifying or denying the proposal so as to assure compliance with the requirements of the Land Development and Planning Ordinance. The applicant shall be notified in writing of the decision of the commission and the reasons therefore. One copy of the proposed plan shall be returned to the applicant labeled "approved," "denied," or "modified." An additional copy shall be kept on file for future reference. (Ord. 740 section 10.4.20(D), 1984)

**16.58.060060 City liability - compliance.**

In acting on an application for lot-property line adjustment, the city assumes no liability for the applicant's actions. Applicants for propertylot line adjustments shall bear full responsibility for compliance with all applicable state and local regulations and for the following:

A. Any public or private easements to be altered as a result of the lot-property line adjustment shall require the prior approval of the agency or individual having right to such easements.

B. The county assessor shall be notified that the lot-property line adjustment is not to result in the creation of an additional legaltax-lot or parcel of record. ~~If a separate tax lot is created as a result, the city shall indicate that it is not considered to be a separately saleable or developable building site and may record a statement to that effect with the county recorder.~~

C. Approval of all lienholders having an interest in properties affected by a lot line adjustment shall be obtained.

D. Approval of the ~~Lot property~~ line adjustment shall be null and void if the new deed descriptions for the properties involved is not recorded with Clackamas County within one (1) year of the final approval.

E. The Planning Director may approve a single one-year extension to the original one-year period. Applicants must file a request for such extension in writing, stating the reasons the request is needed. The Planning Director shall review such requests and may issue the extension after reviewing any changes that may have been made to the text of this title and any other pertinent factors, including public comment on the original application. (Ord. 740 section 10.4.20(E), 1984; Ord. 955 section 27, 1996; Ord. 1080, 2001)

**Chapter 16.60**

**PARTITIONS**

**Sections:**

- 16.60.010 Filing procedures**
- 16.60.020 Standards and criteria**
- 16.60.030 Partitions**
- 16.60.040 Flag lots**
- 16.60.050 Planning Director action**
- 16.60.060 Final procedures and recordation**
- 16.60.070 Public hearing required for appeal process**

**16.60.010 Filing procedures.**

Application procedures shall be as described in Chapter 16.89. (Ord. 740 section 10.4.30(A), 1984; Ord. 981 section 9, 1997; Ord. 1019 section 17, 1999; Ord. 1080, 2001)

**16.60.020 Standards and criteria.**

The same improvements shall be installed to serve each building site of a partition as is required of a subdivision, and the same basic design standards shall apply. If the improvements are not constructed or installed prior to the filing of the signed partition plat with the county, they shall be guaranteed in a manner approved by the City Attorney. However, if the Planning Director finds that the nature of development in the vicinity of the partition makes installation of some improvements unreasonable, the Planning Director shall accept those improvements. In lieu of accepting an improvement, the Planning Director may recommend that the improvement be installed in the area under special assessment financing or other facility extension policies of the city. (Ord. 890 section 51, 1993; Ord. 740 section 10.4.30(B) [part], 1984; Ord. 1514, 2019)

**16.60.030 Partitions.**

Partition means to divide an area or tract of land into two or three parcels within the calendar year. An Application for a partition shall be evaluated based upon the following standards and criteria:

- A.** Conformance with the text and applicable maps of the Comprehensive Plan;
- B.** Conformance with all other applicable requirements of the Land Development and Planning Ordinance;

C. The overall design and arrangement of parcels shall be functional and shall adequately provide building sites, utility easements, and access facilities deemed necessary for the development of the subject property without unduly hindering the use or development of adjacent properties;

D. No partitioning shall be allowed where the sole means of access is by private road, unless it is found that adequate assurance has been provided for year-round maintenance sufficient to allow for unhindered use by emergency vehicles, and unless it is found that the construction of a street to city standards is not necessary to insure safe and efficient access to the parcels;

E. It must be demonstrated that all required public facilities and services are available, or will become available through the development, to adequately meet the needs of the proposed land division. (Ord. 890 section 52, 1993; Ord. 740 section 10.4.30(B)(2), 1984; Ord. 1514, 2019)

**16.60.040 Flag Lots**

Flag Lots or Panhandle-shaped Lots. The commission may allow the creation of flag lots provided that the following standards are met:

A. Not more than one flag lot shall be created to the rear of any conventional lot and having frontage on the same street unless it is found that access will be adequate and that multiple flag lots are the only reasonable method to allow for development of the site. Every flag lot shall have access to a public street.

B. The access strip is to be a minimum of twenty feet in width and shall be paved for its full width from its connection with the public street to the main body of the lot. Except, however, that the width requirement may be reduced to twelve feet, for accessing a single flag lot, where the total length of the access strip does not exceed one hundred feet. Access strips not less than ten feet in width may be permitted where two such drives abut and are provided with reciprocal easements for use. For drives accessing more than two flag lots, the access strip shall be a minimum of twenty feet with reciprocal access and maintenance agreements for all lots.

C. For residential flag lots, a minimum building setback of five feet from the access strip shall be maintained where such buildings exist prior to the creation of the flag lot.

D. Design and locations of buildings on flag lots shall be such that normal traffic will have sufficient area to turn around, rather than necessitating backing motions down the access strip. The commission may establish special setback requirements at the time of approving the creation of flag lots.

E. Flag lots shall not be permitted when the result would be to increase the number of properties requiring direct and individual access connections to the State Highway System or other arterials.

F. The area of a panhandle shaped or flag lot shall be considered to be the rear or buildable portion of the lot and shall not include the driveway or access strip.

G. For the purposes of defining setbacks, flag lots shall have three side yards and one yard of 20 feet on the garage side of the dwelling. (Ord. 1514, 2019)

**16.60.050 Planning Director action**

A. Tentative maps shall be submitted to the Planning Director for review and determination that the proposal will be compatible with the Comprehensive Plan and the requirements of the Land Development and Planning Ordinance. The Planning Director may require such dedication of land easements and may specify such conditions or modifications to the tentative map as are deemed necessary to carry out the Comprehensive Plan. In no event, however, shall the Planning Director require greater dedications or conditions than would be required if the parcel were subdivided. For residentially zoned land, the Planning Director shall require, for newly created lots adjacent to existing residential development, that homes built on such lots be designated on the plat or included in the deed restrictions as "Infill Homes" as defined by 16.04.255 and therefore subject to any or all of the requirements of 16.21.050 Infill Homes. The Planning Director may modify the minimum lot coverage and/or maximum height standard if the applicant can demonstrate that 50% or more of adjacent lots exceed these standards.

B. Upon action by the Planning Director the applicant shall be notified in writing of the decision reached and the steps which must be taken before the parcels can be transferred or utilized for separate development.

C. One copy of the tentative map, clearly marked approved, denied or modified shall be retained in an appropriate file and one copy of same returned to the applicant. (Ord. 740 section 10.4.30(C), 1984; Ord. 1107, 2002; Ord. 1514, 2019)

**16.60.060 Final procedures and recordation**

A. Following the action of the city in approving or conditionally approving a tentative map for a partition, the applicant shall be responsible for the completion of all required improvements, or the posting of adequate assurances in lieu thereof, to the satisfaction of the city engineer prior to the transfer of title of any of the parcels involved.

B. Recordation of an accurate survey map, prepared by a registered engineer or licensed surveyor, must be completed within two years of the approval of the tentative map. One copy of the recorded survey map shall be filed with the City Planner for appropriate record keeping.

C. The applicant shall bear full responsibility for compliance with applicable state and city regulations regarding the recordation of documents and subsequent transfer of ownership.

- D. ~~The Planning Director may approve a single one-year extension to the original two-year period. Single phase partitions and subdivisions shall be recorded within four years following original approval. Multiple phase subdivisions shall be recorded within six years of the original approval. The Planning Director may approve a single one-year extension to the original approval beyond those stated above for partitions or subdivisions.~~ Applicants must file a request for such extension in writing, stating the reasons the request is needed. The Planning Director shall review such requests and may issue the extension after reviewing any changes that may have been made to the text of this title and any other pertinent factors, including public comment on the original application. (Ord. 740 section 10.4.30(D), 1984; Ord. 1080, 2001; Ord. 1514, 2019)

#### **16.60. 070 Public hearing required for appeal process**

Each properly that filed application for an appeal of a Planning Director's partition application decision shall be considered by the Planning Commission following a public hearing advertised and conducted in the manner prescribed in Division VIII. (Ord. 740 section 10.3.75 (C), 1984; Ord. 1514, 2019)

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Chapter 16.68

SUBDIVISIONS FINAL PROCEDURES AND RECORDATION

Sections:

- 16.68.010 Responsibilities of applicant.
- 16.68.020 Submittal of subdivision plat.
- 16.68.030 Information required on plat.
- 16.68.040 Information to accompany plat.
- 16.68.050 Technical plat review.
- 16.68.060 Planning Commission approval.
- 16.68.070 Filing of final plat.

**16.68.010 Responsibilities of applicant.**

Following the action of the city in approving or conditionally approving a tentative plat for a subdivision, the applicant shall be responsible for the completion of all required improvements, or the posting of adequate assurances in lieu thereof, to the satisfaction of the city, prior to transfer of title of any of the lots involved. (Ord. 740 section 10.4.40(C)(9)(a), 1984; Ord 1237, 2007)

**16.68.020 Submittal of subdivision plat.**

Single phase partitions and subdivisions shall be submitted to the city and recorded within four years following original approval. Multiple phase subdivisions shall be recorded within six years of the original approval. The subdivider shall submit the original drawing, a Mylar copy, and any supplementary information to the city. The Planning Director may approve a single one-year extension to the original approval beyond those stated above for partitions or subdivisions. The subdivider shall provide a formal request for extension in writing, stating the reasons thereof. ~~The subdivider shall submit the original hardboard drawing, a Mylar copy, and any supplementary information to the city. If the subdivider wishes to proceed with the subdivision after the expiration of the two-year period following the approval of the tentative plat, he must formally request an extension of time, in writing, stating the reasons therefore.~~ The City shall review such requests and may grant such requests; upon finding of good cause, ~~allow a time extension of not more than six additional months, provided that the request for the time extension is properly filed before the end of the two-year approval period.~~ (Ord. 740 section 10.4.40(C)(9)(b), 1984; Ord 1237, 2007; Ord. 1514, 2019)

**16.68.030 Information required on plat.**

In addition to that required for the tentative plat or otherwise specified by law, the following information shall be shown on the plat:

- A. Date, north point and scale of drawing;

- B. Legal description of the tract boundaries;
- C. Name and address of the owner or owners, subdivider, engineer or surveyor, and land planner or landscape architect;
- D. Tract boundary lines, right-of-way lines of streets and lot lines with dimensions, bearings or deflection angles and radii, arcs, points or curvature and tangent bearings. All bearings and angles shall be shown to the nearest one second and all dimensions to the nearest 0.01 foot. If circular curves are proposed in the plat, the following data must be shown in tabulation form: curve radius, central angles, arc length, length and bearing of long chord. All information shown on the face of the plat shall be mathematically accurate;
- E. Easements denoted by fine dotted lines, clearly identified and, if already of record, their recorded reference. If an easement of record is not definitely located, a statement of the easement shall be given. The width of the easement, its length and bearing, and sufficient ties to locate the easement with respect to the subdivision shall be shown. If the easement is being dedicated by the map, it shall be properly referenced in the owner's certificates of dedication;
- F. Name and right-of-way width of each street or other designated rights-of-way;
- G. Any building setback lines, if more restrictive than otherwise required in Division III;
- H. Numbering of blocks consecutively within the subdivision and numbering of lots within each block;
- I. Location and purpose for which sites, other than residential lots, are dedicated or reserved;
- J. Easements and any other areas for public use dedicated without any reservation or restriction whatever;
- K. A copy of any deed restrictions written on the face of the plat or prepared to record with the plat with reference on the face of 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 land intended for public use except land which is intended for the exclusive use of the lot owners in the subdivision, their licensees, visitors, tenants and servants.
  - 3. A certificate with the seal of, and signed by, the engineer or the surveyor responsible for the survey and final plat,

4. Other certifications now or hereafter required by law;

M. Where any portion of the platted area is subject to inundation in the event of a one-hundred-year flood, that area shall be clearly indicated on the final plat. (Ord. 740 section 10.4.40(C)(9)(c), 1984)

**16.68.040 Information to accompany plat.**

The following data shall accompany the final plat:

A. A narrative describing how each condition of approval from the original entitling action (preliminary partition or subdivision application) has been or will be met by the applicant;

A.B. 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.C. Sheets and drawings showing the following:

1. Traverse data including the coordinates of the boundary of the subdivision and ties to section corners and donation land claim corners, and showing the error of closing, if any,
2. The computation of distances, angles, and courses shown on the plat,
3. Ties to existing monuments, proposed monuments, adjacent subdivisions, street corners and state highway stationing;

C.D. A copy of any deed restrictions applicable to the subdivision;

D.E. A copy of any dedication requiring separate documents;

E.F. A certificate by the city engineer that the subdivider has complied with the requirements for bonding or otherwise assured completion of required improvements; and

F.G. A certificate of the subdivider of the total cost or estimate of the total cost for the development of the subdivision in accordance with the provisions and requirements of this title or any other ordinance or regulation of the city relating to subdivision development. This certificate is to be accompanied by a final bid estimate of the subdivider's contractor, if there is a contractor engaged to perform the work, and the certificate of the total cost estimate must be first approved by the city engineer. (Ord. 740 section 10.4.40(C)(9)(d), 1984; Ord. 1111 section 3, 2003)

**16.68.050 Technical plat review.**

A. Upon receipt by the city, the plat and other data shall be reviewed to determine that the subdivision, as shown, is substantially the same as it appeared on the

approved tentative plat and that there has been compliance with provisions of the law and of these regulations.

- B. The City may make such checks in the field as are desirable to verify that the plat is sufficiently correct on the ground, and their representatives may enter the property for this purpose.
- C. If the City determines that full conformity has not been made, the City shall advise the subdivider of the changes or additions that must be made and shall afford the subdivider an opportunity to make the changes or additions. (Ord. 740 section 10.4.40(C)(9)(e), 1984; Ord 1237, 2007)

**16.68.060 Planning Commission approval.**

Approval of the plat shall be indicated by the signatures of the Planning Director or their designee. After the plat has been approved by all city and county officials, one reproducible copy of all data (plat face, dedications, certificates, approvals), one copy of all plat data in a "dxf" digital format, and one copy of recorded restrictive and protective covenants shall be returned to the City Planner. (Ord. 899 section 5, 1993; Ord. 740 section 10.4.40(C)(9)(f), 1984; Ord 1237, 2007)

**16.68.070 Filing of final plat.**

Approval of the plat by the city, as provided by this division, shall be conditioned on its prompt recording. The subdivider shall, without delay, submit the plat to the county assessor and the county governing body for signatures, as required by Oregon Revised Statutes Chapter 92. The plat shall be prepared as provided by Oregon Revised Statutes Chapter 92. Approval of the final plat shall be null and void if the plat is not recorded within six months of the date of the signature of the Planning Director. (Ord. 740 section 10.4.40(C)(9)(g), 1984; Ord 1237, 2007)

## Chapter 16.89

### APPLICATION AND REVIEW PROCEDURES

#### Sections:

- 16.89.010 Purpose.
- 16.89.020 Description and summary of processes.
- 16.89.030 Type I procedure.
- 16.89.040 Type II procedure.
- 16.89.050 Type III procedure.
- 16.89.060 Type IV procedure.
- 16.89.070 Neighborhood meetings.
- 16.89.080 Application requirements and completeness.
- 16.89.090 Modifications.
- 16.89.100 Administrative Reviews

#### 16.89.010 Purpose.

The purpose of this chapter is to establish standard decision-making procedures that will enable the City, the applicant, and the public to review applications and participate in the decision-making process in a timely and effective way. (Ord. 1080, 2001)

#### 16.89.020 Description and Summary of Processes.

All land use and development applications shall be decided by using the procedures contained in this Chapter. Specific procedures for each type of permit are contained in Sections 16.89.030 through 16.89.060. The procedure type assigned to each permit governs the decision-making process for that permit. Additional requirements may be found in the individual chapters governing each permit type. The four types of procedure are described below. Table 16.89.020 lists the City's land use and development applications and their required procedures.

- A. Type I Procedure (Ministerial). Type I decisions are made by the Planning Director without public notice and without a public hearing. The Type I procedure is used when there are clear and objective approval criteria or provisions and applying those criteria or provisions requires no use of discretion. The appeal of a Type I Planning Director's decision is heard by the Planning Commission.
- B. Type II Procedure (Administrative). Type II decisions are made by the Planning Director with public notice and an opportunity for a public hearing. The appeal of a Type II decision is heard by the Planning Commission.

C. Type III Procedure (Quasi-Judicial/Legislative). Type III decisions are made by the Planning Commission after a public hearing, with appeals reviewed by the City Council. Type III procedures generally use discretionary approval criteria.

D. Type IV procedure (Council Decision). Type IV decisions generally apply to legislative matters, but include certain other applications as well. Legislative matters involve the creation, revision, or large-scale implementation of public policy (e.g., adoption of land use regulations, zone changes, and comprehensive plan amendments that apply to entire districts). Type IV matters are considered initially by the Planning Commission with final decisions made by the City Council. Annexations and certain quasi-judicial applications are also processed under the Type IV process. (Ord. 1080, 2001; Ord 1237, 2007; Ord. 1514, 2019)

**TABLE 16.89.020  
Land Use and Development Application Procedures**

Application Type	Process Type	Notice Radius (Feet)	Neighborhood Meeting Required
Access permit to public street	I	n/a	No
Administrative Review	I	n/a	No
Administrative Review	II	100	No
Amendments to Zoning Map	IV	500	Yes
Annexation, Minor and Major	IV	500	Yes
Appeals	III	200	No
Building Permit	I	n/a	No
Comprehensive Plan Amendment	IV	500	Yes
Conditional Use Permit	III	500	No
Condominium Construct. (less than 6 units)*	I	n/a	No
Interpretation	See Section 16.05.020		
<u>Property Line Adjustment**</u>	<del>III</del>	<del>n/a</del> 100	No
Modification	See Section 16.89.090		
Non-Conforming Structure/Use	II	100	No
Parking Lot/Paving projects	I	n/a	No
Partition	II	100	No

Application Type	Process Type	Notice Radius (Feet)	Neighborhood Meeting Required
Planned Unit Development	III	200	Yes
Sign Permit (non-SDR)	I	n/a	No
Sign Permit – Discretionary Monument Sign or A-Frame Sign Permit (16.42.040)	II	100	No
Site and Design Review – Type II	II	100	No
Site and Design Review – Type III	III	500	Yes
Site Plan Review	I	n/a	No
Temporary Permit (16.44.090)	See Chapter 16.44		
Temp. Hardship Permit (16.44.100)	II	100	No
Subdivision	III	500	Yes
Text Amendment	IV	500	Yes
Variance, Minor	II	200	No
Variance, Major	III	200	No

NOTES: \* See also Chapter 16.78      \*\* See also Chapter 16.58.

**16.89.030 Type I procedure.**

- A. Application requirements. Type I applications shall be made on forms provided by the Planning Director. The application shall be accompanied by all required information and fees.
- B. Decision requirements. The Planning Director's decision shall address all of the approval criteria. Based on the criteria and the facts contained within the record, the Planning Director shall approve, approve with conditions, or deny the requested permit or action. A written record of the decision shall be provided to the applicant and kept on file at the City.
- C. Final decision. The decision shall be final on the date it is mailed or otherwise provided to the applicant, whichever occurs first. (Ord. 1080, 2001)

**16.89.040 Type II procedure.**

- A. Pre-application conference. A pre-application conference may be required by the Planning Director for Type II applications.
- B. Application requirements. Type II applications shall be made on forms provided by the Planning Director. The application shall be accompanied by all required information and fees.

**C. Public notice.**

1. Before making a Type II decision, the Planning Director shall mail notice meeting the requirements of state law to:
  - i. All owners of real property and, if the owner's address is different from the site address, all residents of property, within the distance prescribed in Table 16.89.020.
  - ii. Any person who submits a written request to receive notice; and
  - iii. Any governmental agency which is entitled to notice under an intergovernmental agreement entered into with the City. The City may notify other affected agencies, as appropriate, for review of the application.
  - iv. Any application that involves access to OR 99E or that is expected to impact the state highway system must be provided to the Oregon Department of Transportation for their review and comment regarding conformance with state access management and mobility standards and requirements.
  - v. Any application that is expected to impact a road under the jurisdiction of Clackamas County must be provided to Clackamas County for review and comment regarding county standards.
2. Notice of any proposal that includes a new transportation facility or improvement and where these facilities or improvements included or may impact a collector or arterial street, will be sent to the ODOT and Clackamas County or any special interest transportation groups as appropriate. Special interest transportation groups could include trucking organizations, bicycles and pedestrian interest groups, and interest groups for people with disabilities. Information that should be conveyed with the notice includes the following:
  - a. Project location
  - b. Proposed land use action
  - c. Location of project access point(s)
3. The public notice shall allow a 10-day period for submitting written comments before a decision is made on the permit.
4. The City shall prepare an affidavit of mailing for the public notice and make the affidavit part of the application file.

**D.** The Planning Director shall make Type II decisions in writing addressing all of the relevant approval criteria and standards. Based upon the criteria and standards, and the facts contained within the record, the Planning Director shall approve, approve with conditions, or deny the requested permit or action.

**E.** Notice of Decision.

**1.** Within five days of making a final decision on a Type II application, a notice of decision shall be sent to:

- i.** All owners of real property and, if the owner's address is different from the site address, all residents of property, within the distance prescribed in Table 16.89.020;
- ii.** Any person who submits a written request to receive notice; and
- iii.** Any governmental agency which is entitled to notice under an intergovernmental agreement entered into with the City.

**2.** The notice of decision shall include information on the application, the City's decision, and a statement explaining how an appeal of the decision may be filed.

**F.** Effective Date. A Type II decision is final for purposes of appeal when it is mailed by the City.

**G.** Appeal. A Type II decision may be appealed to the Planning Commission as follows:

**1.** The following persons have legal standing to appeal a Type II decision:

- i.** The applicant;
- ii.** Any person who was mailed notice of the decision; and
- iii.** Any other person who participated in the proceeding by submitting written comments.

**2.** Procedure.

**a.** A Notice of Appeal shall be filed in writing, on forms provided for the purpose by the Planning Director, within 40-12 days of the date the Notice of Decision was mailed.

**b.** The Notice of Appeal shall be accompanied by all required information and fees.

c. An appeal of a Type II decision shall be made following the Type III public notice procedures, as described in Section 16.89.050.D.

d. The appeal shall be limited to the specific issues raised during the written comment period unless the hearings body allows additional evidence or testimony concerning any other relevant issue. The hearings body may allow additional evidence if it determines that such evidence is necessary to resolve the case. The purpose of this requirement is to limit the scope of Type II appeals by encouraging persons to submit specific concerns in writing during the comment period. Only in extraordinary circumstances should new issues be considered by the hearings body on appeal of a Type II decision.

3. The decision of the Planning Commission regarding an appeal of a Type II decision is the final decision of the City unless appealed to the City Council. An appeal to the City Council shall follow the same notification and hearing procedures as for the appeal of the staff decision.

H. Any decision or interpretation of this title made by staff that is not a Type II decision may be appealed to the Planning Commission without fee, provided that such appeal is filed in writing within ten days of the staff decision. Such appeals shall be heard as a new business item. The Planning Commission's decision on such appeals may be appealed to the City Council following the Type III public notice procedures, as described in Section 16.89.050.D. (Ord. 1080, 2001; Ord 1237, 2007; Ord. 1340, 2011)

**16.89.050 Type III Decision.**

A. Pre-application conference. A pre-application conference may be required by the Planning Director for Type III applications.

B. Neighborhood meetings. As directed in Table 16.89.020, the applicant may be required to present their development proposal at a neighborhood meeting before the City accepts the application as complete. See Section 16.89.070.

C. Application requirements. Type III applications shall be made on forms provided by the Planning Director. The application shall be accompanied by all required information and fees.

D. Public notice.

1. At least 20 days prior to a public hearing on a Type III decision or a Type II appeal decision, the Planning Director shall mail notice meeting the requirements of state law to:

a. All owners of real property and, if the owner's address is different from the site address, all residents of property, within the distance prescribed in Table 16.89.020;



**E. Conduct of public hearing.**

**1.** In all evidentiary hearings required by this title the following procedures shall be followed:

**a.** All interested persons in attendance shall be heard on the matter of hearing, and this fact shall be communicated to those in attendance;

**b.** A summary of the application or other matter for hearing shall be given by the presiding officer or their designee;

~~**c.** The staff report shall be made followed by questions, if any, of the staff by the hearings body;~~

~~**d.c.**~~ The public hearing shall be opened and testimony shall be received in the following order:

~~**i.** Staff (brief introduction of the project (up to 5-minutes);~~

~~**ii.** Applicant (up to 20-minutes);~~

~~**iii.** ii. Proponents (up to 3-minutes each);~~

~~**iv.** Opponents (up to 3-minutes each); and~~

~~**v.** Rebuttal by proponents or applicant (up to 10-minutes);~~

~~**vi.** Questions of staff and applicant;~~

~~**d.**~~ Close public hearing;

~~**e.**~~ Additional questions and discussion limited to the record and testimony heard by the hearing body;

~~**f.**~~ Decision by the hearing body except that further discussions, decision, or reopening of the public hearing may be postponed to another meeting, the time, date, and place of which shall be announced before adjournment.

**2.** All persons who speak at the hearing shall identify themselves by name, address, and interest in the matter. Attorneys or other agents shall be allowed to speak on behalf of all participants.

**3.** Physical evidence in the form of written documents, photographs, or other exhibits may be accepted by the hearing body if deemed to be pertinent.

**4.** A record made at any prior evidentiary hearing may be accepted, considered, and used by the hearing body at any subsequent hearing, and said body, by majority vote of a quorum present, may deny to accept or hear any repetitious matter.

5. The hearing body may recess a hearing in order to obtain additional information or to serve further notice upon other property owners or persons it decides may be interested. Upon recessing for these purposes, the hearing body shall announce the time and date when the hearing will be resumed.
6. Before the conclusion of the initial evidentiary hearing, any participant may ask the hearings body for an opportunity to present additional relevant evidence or testimony that is within the scope of the hearing. The hearings body shall grant the request by scheduling a date to finish the hearing as follows:
  - a. If the hearings body grants a continuance, the completion of the hearing shall be continued to a date, time, and place at least seven days after the date of the first evidentiary hearing. An opportunity shall be provided at the second hearing for persons to present and respond to new written evidence and oral testimony. If new written evidence is submitted at the second hearing, any person may request, before the conclusion of the second hearing, that the record be left open for at least seven days, so that they can submit additional written evidence or testimony in response to the new written evidence; or
  - b. If the hearings body leaves the record open for additional written evidence or testimony, the record shall be left open for at least seven days after the hearing. Any participant may ask the City in writing for an opportunity to respond to new evidence submitted during the period the record was left open. If such a request is filed, the hearings body shall reopen the record as follows:
    - i. When the hearings body re-opens the record to admit new evidence or testimony, any person may raise new issues which relate to that new evidence or testimony.
    - ii. An extension of the hearing or record granted pursuant to this subsection is subject to the limitations of ORS 227.178 (120-day rule), unless the continuance or extension is requested or agreed to by the applicant.
    - iii. If requested by the applicant, the City shall allow the applicant at least seven days after the record is closed to all other persons to submit final written arguments in support of the application, unless the applicant expressly waives this right. The applicant's final submittal shall be part of the record but shall not include any new evidence.

**F. Decision process.**

1. Approval or denial of a Type III decision or appeal of a Type II decision shall be based on standards and criteria located in the code.

2. The hearings body shall issue a final written order containing findings and conclusions that approve, approve with conditions, or deny the application.
3. The written decision shall explain the relevant criteria and standards, state the facts relied upon in rendering the decision, and justify the decision according to the criteria, standards, and facts.
4. In cases involving attorneys, the prevailing attorney shall prepare the findings, conclusions, and final order. Staff shall review and, if necessary, revise, these materials prior to submittal to the hearings body.

**G. Notice of Decision.**

1. The written findings shall be sent to:
  - a. Any person who submits a written request to receive notice, provides written comments during the application review period, or provides written or oral testimony in the public hearing;
  - b. The applicant and owner of the subject property;
  - c. Any governmental agency which is entitled to notice under an intergovernmental agreement entered into with the City.
2. The written findings shall include information on the application, the City's decision, and a statement explaining how an appeal of the decision may be filed.

**H. Effective Date. A Type III decision is final for purposes of appeal when it is mailed by the City.**

**I. Appeal. The Planning Commission's decision on a Type III decision or Type II appeal may be appealed to the City Council as follows:**

1. The following have legal standing to appeal:
  - a. The applicant;
  - b. Any person who was mailed notice of the decision;
  - c. Any other person who participated in the proceeding by testifying or submitting written comments; and
  - d. The City Council, on its own motion.
2. Procedure.

- a. A Notice of Appeal shall be filed in writing, on forms provided for the purpose by the Planning Director, within 10-12 days of the date the Notice of Decision was mailed.
  - b. The Notice of Appeal shall be accompanied by all required information and fees.
  - c. The appeal shall be limited to the specific issues raised during the comment period and public hearing process unless the hearings body allows additional evidence or testimony concerning any other relevant issue. The hearings body may allow additional evidence if it determines that such evidence is necessary to resolve the case. The purpose of this requirement is to limit the scope of appeals by encouraging persons to be involved in the public hearing. Only in extraordinary circumstances should new issues be considered by the hearings body on an appeal.
3. The City Council shall overturn or remand the decision of the Planning Commission only when one or more of the following findings are made:
- a. That the Commission did not correctly interpret the requirements of this title, the Comprehensive Plan, or other requirements of law;
  - b. That the Commission did not observe the precepts of good planning as interpreted by the Council; or
  - c. That the Commission did not adequately consider all of the information which was pertinent to the case.
  - e.d. The Commission did not receive correct or complete information in the original application.
4. The Council's action on an appeal shall be governed by the same general regulations, standards, and criteria as apply to the Commission in the original consideration of the application. Council may choose to remand decisions to the Planning Commission if new information is presented that was not part of the original Planning Commission record.
- J. Any decision of the Planning Commission may be appealed to the City Council unless otherwise specified in this Title. Such appeals will be processed using the Type III procedures unless otherwise specified in this Title.
- K. The decision of the City Council regarding a Type IV decision, appeal of a Planning Commission decision, or any other process contained within this title, is the final decision of the City. (Ord. 1080, 2001; Ord. 1111 section 5, 2003; Ord 1237, 2007)

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**16.89.060 Type IV decision.**

For certain applications, the City Council makes a final decision after a recommendation by the Planning Commission. These application types are referred to as Type IV decisions.

- A. Pre-application conference. A pre-application conference may be required by the Planning Director for Type IV applications.
- B. Neighborhood meetings. The applicant may be required to present their development proposal at a neighborhood meeting (see Section 16.89.070). Table 16.89.020 sets the minimum guidelines for neighborhood review but the Planning Director may require other applications to go through neighborhood review as well.
- C. Application requirements. Type IV applications shall be made on forms provided by the Planning Director. The application shall be accompanied by all required information and fees.
- D. Public notice and hearings. The public notice and hearings process for the Planning Commission's review of Type IV applications shall follow that for Type III applications, as provided in subsections 16.89.050.D and 16.89.050.E.
- E. Decision process.
  1. Approval or denial of a Type IV decision shall be based on the standards and criteria located in the code.
  2. The hearings body shall issue a final written order containing findings and conclusions recommending that the City Council approve, approve with conditions, or deny the application.
  3. The written decision shall explain the relevant criteria and standards, state the facts relied upon in rendering the decision, and justify the decision according to the criteria, standards, and facts.
  4. In cases involving attorneys, the prevailing attorney shall prepare the findings, conclusions, and final order. Staff shall review and, if necessary, revise, these materials prior to submittal to the hearings body.
- F. City Council proceedings:
  1. Upon receipt of the record of the Planning Commission proceedings, and the recommendation of the Commission, the City Council shall conduct a review of that record and shall vote to approve, approve with conditions, or deny the recommendation of the Planning Commission.
  2. The City Council may question those individuals who were a party to the public hearing conducted by the Planning Commission if the Commission's record appears to be lacking sufficient information to allow for a decision by the Council. The Council shall hear arguments based solely on the record of the Commission.

3. The City Council may choose to conduct public hearings on Comprehensive Plan amendments, amendments to the text of this title, zone map amendments, and annexations. If the Council elects to conduct such hearings, it may do so in joint session with the Planning Commission or after receiving the written record of the Commission. (Ord. 1080, 2001)

**16.89.070 Neighborhood Meetings.**

- A. Applicants are encouraged to meet with adjacent property owners and neighborhood representatives prior to submitting their application in order to solicit input, identify issues, and exchange information about the proposed meeting.
- B. The Planning Commission or Planning Director may require an applicant to hold a meeting in the neighborhood prior to accepting an application as complete. A neighborhood meeting is required for some application types, as shown in Table 16.89.020, unless this requirement is waived by the Planning Director.
- C. At least two weeks prior to the neighborhood meeting, the applicant shall mail notice of the meeting to:
  1. The appointed chair of any neighborhood association in whose boundaries the application lies; and
  2. All of those who would receive notice of the application's public hearing before the Planning Commission.
- D. The meeting shall be held in a fully accessible location approved by the City.
- E. Following a required neighborhood meeting, applicants shall prepare a written summary of pertinent issues raised and shall prepare a detailed response to each issue. This material shall be submitted to the Planning Department in electronic format at least two weeks before the initial public hearing.
- F. Applicants or attendees may make audio or video recordings of the neighborhood meeting if desired. (Ord. 1080, 2001; Ord. 1111 section 5, 2003; Ord 1237, 2007; Ord. 1514, 2019)

**16.89.080 Application Requirements and Completeness.**

- A. Submittal. Applications for land use and development permits shall be filed on forms provided by the purpose by the Planning Director. The application shall be made with all required information and fees.
- B. Fees. Fees shall be set out by resolution adopted by the City Council. Fees shall differentiate between various processes and applications and no part of the fee shall be refunded unless approved by the Planning Director.

C. Amendments to forms. Application forms may be amended by the Planning Director. The Planning Commission shall first review and approve all proposed amendments as New Business Items.

D. Completeness. In reviewing an application for completeness, the following procedure shall be used:

1. When an application is received by the City, the Planning Director shall immediately determine whether the following essential items are present. If they are not, the Planning Director may choose not to accept the application, in which case the application shall be immediately returned to the applicant:

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

2. Completeness.

a. After the application is accepted, the Planning Director shall review the application for completeness. If the application is incomplete, the Planning Director shall notify the applicant in writing exactly what information is missing within thirty (30) days of the application and allow the applicant 180 days to submit the missing information;

b. In accordance with the application submittal requirements, the application shall be deemed complete upon the receipt by the Planning Director of all required information. The applicant shall have the option of withdrawing the application or refusing to submit information requested under (a), above. For the refusal to be valid, it shall be made in writing and received by the Planning Director no later than fourteen (14) days after the date on the letter of incompleteness. If the applicant refuses in writing to submit the missing information, the application shall be deemed complete for the purposes of processing on the 31st day after first acceptance of the application.

E. The City shall take final action on permit applications which are subject to this chapter, including resolution of all appeals, within 120 days from the date the application is deemed complete. Any exceptions to this rule shall conform to the provisions of ORS 227.178. This 120-day rule does not apply to legislative comprehensive plan and text amendment applications as defined under ORS 227.178.

F. Standards and criteria. Approval or denial of a complete application shall be based upon the standards and criteria that were applicable at the time the application was first accepted. (Ord. 1080, 2001)

#### **16.89.90 Modifications.**

Any proposed modification to previously approved land use applications, including site plans, elevations, or conditions of approval, shall be reviewed by the Planning Director to determine if they are minor, intermediate, or major. Factors to be considered in this determination include the date of the original application, the impact on neighboring properties, and the impact on public service provision. Modifications shall be processed as indicated in subsections A through D below. Modification applications shall be made on forms provided for the purpose by the Planning Director.

- A. Minor Modification.** Minor modifications have a negligible impact on an approved site plan, land use decision, or condition of approval. The Planning Director will review all minor modifications under the Type I process.
- B. Intermediate Modification.** Intermediate modifications are those that do not fit the definitions in 16.89.090(A) or (C). The Planning Director will review intermediate modifications under the Type II process. If the Planning Director approves an intermediate modification, notice of the decision will be made in accordance with the Type II process. The individuals noticed may obtain a public hearing on the issue by filing a request in writing within ten days of the notice mailing date. Any additional costs of such hearings shall be paid by the modification applicant. Hearing notice shall follow the requirements of the procedure type of the original application.
- C. Major Modification.** Any modification that would result in a substantial impact to an approved site plan, land use decision, or condition of approval is a major modification. Major modifications shall be processed using the procedure type of the original application.
- D. Modification criteria.** Modification applications shall be evaluated based on the criteria pertaining to the original application being modified. (Ord. 1111, 2003; Ord 1237, 2007)

#### **16.89.100 Administrative Reviews.**

Where a determination about a proposed use, structure or the legality of a parcel cannot be made without interpretation or the exercise of factual, policy or legal judgment, the proposed use, structure, or the legality of a lot or parcel may be reviewed as an administrative review subject to submittal of an application as provided in this chapter. The administrative review procedures, as provided below, shall be followed in making these decisions.

- A.** The decision shall be made on the basis of the applicable city comprehensive plan and applicable standards and criteria in the City Of Canby land development and planning ordinance. The Planning Director or designee may attach any conditions of approval deemed necessary to ensure conformance of the use, structure, lot or parcel to the standards or criteria. Administrative Review Applications may be submitted and shall be signed as required in this chapter. Notwithstanding any other provisions of this title, the Planning Director or designee may forward any

land use permit or application to the planning commission for a public hearing and initial decision.

- B.** Notice of a decision shall be sent to the applicant, the owner(s) of the subject property, the co-tenants if the subject property is owned by tenants in common, and all property owners within the notification area prescribed by this chapter or as required by state law or administrative rule.
- C.** The applicant or any persons aggrieved or affected by the decision may file a request for a hearing to the City Planning Department within 120 days of the date the decision was rendered. The request must follow procedures in Sections 16.89.030 and 040.
- D.** The applicant may file a request for reconsideration without a hearing to the Planning Department within 120 days of the date the decision was rendered. The request must be in writing and received in the Planning Department office prior to the decision being final, and should explain wherein the decision is factually or legally incorrect, or state new facts material to the decision that were not available to the Planning Director, or propose modifications that will better conform the proposal to the requirements of this title. The request for reconsideration shall include a signed 30-day waiver of the 120-day time limit in the Oregon Revised Statutes.

Applicants shall be limited to one request for reconsideration per application. The Planning Director shall reconsider the matter and provide notice to the person requesting reconsideration and as required in subsection (B) of this section.

- E.** When reconsideration has been requested, the decision is stayed until final action is taken. (Ord. 1514, 2019)

**Chapter 16.81**  
**MIDDLE HOUSING MODEL ORDINANCE**

**Sections:**

- 16.81.010 Purpose**  
**16.81.020 Applicability**  
**16.81.030 Review Procedures**  
**16.81.040 Development Standards**

**16.81.010 Purpose.**

The purpose of the middle housing model ordinance is to implement Oregon House Bill 2001, codified in ORS 197.758 by providing siting and design standards for duplex development on lots or parcels that allow for the development of detached single-family dwellings. Canby has adopted the State's Model Ordinance for a Medium City (see **Figure 1**, attached).

**16.81.020 Applicability.**

- A.** This chapter provides guidance and identified development standards as a complement to the Model Ordinance. Canby is a medium city as defined by Oregon House Bill 2001 with a population between 10,000 and 25,000 and not within Metro's jurisdiction. Duplexes are allowed on any lot in Canby that permits a single-family home as an outright use. This applies primarily to the Low Density Residential R-1 zone. Other zones including the Medium Density Residential R-1.5 and Commercial Residential C-R also permit single family detached housing and duplexes and are subject to the zoning standards in these zones.

**16.81.030 Review Procedure.**

Duplex development will be subject to the Type 1 Site Plan Review requirements in Application and Review Procedures 16.89.030.

**16.81.040 Development Standards**

The development standards included below are requirements from Oregon House Bill 2001 and are the minimum standards required by the Department of Land Conservation and Development.

**A. Maximum Density**

1. In a Low Density Residential (R-1) zone a maximum of two dwelling units are permitted on each legal lot subject to development and infrastructure requirements. This could result in one duplex or a single family home and an accessory dwelling unit on one legal lot. Residential density is regulated by the

development standards in Medium Density Residential (R-1.5) and Commercial Residential (C-R) zones.

**B. Setbacks**

Setbacks are regulated by the zoning code for the R-1, R-1.5 and C-R zones with the exception that rear yard setbacks for duplex development is permitted within 15 feet of the property line.

**C. Lot Sizes**

Minimum lot size for the R-1, R-1.5 and C-R zone apply to C-R creation of lots. Oregon Senate Bill 458 will permit division of a duplex into two lots on a legal lot as of July 1, 2022.

**D. Standards**

All R-1, R-1.5 and C-R zone design standards apply to duplex development.

**E. Building Height**

Maximum building height is limited to 35 feet in the R-1, R-1.5 and C-R zones for duplex development.

**F. Impervious Surface**

Maximum impervious surface permitted in the R-1, R-1.5 and C-R zones apply to duplex development.

**G. Parking**

Parking is not required for duplex development in the R-1, R-1.5 and C-R zones.

**H. Utilities**

Clear and objective standards apply to utility requirements, so the same utility standard would apply equally between what is required for single-family detached home and a duplexes.

**I. Frontage Improvements**

Clear and objective standards apply to frontage improvement requirements, so the same frontage standard would apply equally between what is required for single-family detached home and a duplexes.

# FIGURE 1

## Medium Cities Middle Housing Model Code

### **User's Guide:**

Oregon House Bill 2001 (2019) (HB 2001) requires that “Medium Cities” (defined as cities with a population of more than 10,000 and less than 25,000 that are not within Metro’s jurisdiction) allow a duplex on each lot or parcel zoned for residential use that allows for the development of detached single family dwellings. Duplexes provide an opportunity to increase housing supply in developed neighborhoods and can blend in well with detached single-family dwellings.

The bill allows local governments to regulate siting and design of duplexes, provided that the regulations do not, individually or cumulatively, discourage duplex development through unreasonable costs or delay. When regulating siting and design of duplexes, Medium Cities should balance concerns about neighborhood compatibility and other factors against the need to address Oregon’s housing shortage by removing barriers to development and should ensure that any siting and design regulations do not, individually or cumulatively, discourage the development of duplexes through unreasonable costs or delay.

Medium Cities may develop their own standards in compliance with the requirements of HB 2001. This model code may provide guidance toward that end. However, if Medium Cities do not wish to prepare their own standards or if Medium Cities do not adopt the required code amendments by June 30, 2021, they must directly apply this model code prepared by the Department of Land and Conservation Development (DCLD) to development in their jurisdictions. The model code is intended to be straightforward and implementable by Medium Cities throughout the state. The model rules are consistent with the requirements and intent of HB 2001 and are intended to ensure that a duplex is no more difficult to develop than a detached single family home. The model code will be adopted by reference into Oregon Administrative Rules.

To the extent they are applicable, the Administrative Rules contained in Chapter 660, Division 46 apply to and may be used to interpret this model code.

## Sections:

- A. Purpose
- B. Definitions
- C. Applicability
- D. Relationship to Other Regulations
- E. Permitted Uses and Approval Process
- F. Development Standards
- G. Design Standards
- H. Duplex Conversions
- I. Figures

### A. Purpose

The purpose of this model middle housing code (“code”) is to implement HB 2001, codified in ORS 197.758 et seq, by providing siting and design standards for duplexes developed on lots or parcels that allow for the development of detached single family dwellings.

### B. Definitions

The following definitions shall apply for the purposes of this code, notwithstanding other definitions in the development code:

1. “Detached single family dwelling” means a detached structure on a lot or parcel that is comprised of a single dwelling unit. Detached single family dwellings may be constructed off-site, e.g., manufactured dwellings or modular homes.
2. “Duplex” means two dwelling units on a lot or parcel in any configuration. Figures 1–6 in Section I illustrate examples of possible duplex configurations. In instances where a development can meet the definition of a duplex and also meets the definition of a primary dwelling unit with an accessory dwelling unit (ADU), the applicant shall specify at the time of application review whether the development is considered a duplex or a primary dwelling unit with an ADU.
3. “Lot or Parcel” means any legally created unit of land.
4. “Zoned for residential use” means a zoning district in which residential dwellings are the primary use and which implements a residential Comprehensive Plan map designation.

### C. Applicability

1. Except as specified in subsection (2) of this section (C), the standards in this code allow for the development of duplexes, including those created through conversion of existing detached single family dwellings, on lots or parcels zoned for residential use that allow for the development of detached single family dwellings.
2. The standards in this code do not allow the following, unless otherwise permitted by the development code:

- Creation of duplexes on lots or parcels on lands that are not zoned for residential use. This includes lands zoned primarily for commercial, industrial, agricultural, public, or mixed uses, even if those zones allow for the development of detached single family dwellings.
- Creation of more than two dwelling units on a single lot or parcel.

#### **D. Relationship to Other Regulations**

1. Conflicts. In the event of a conflict between this code and other standards applicable to a duplex, the standards of this code control.
2. Public Works Standards. Clear and objective exceptions to public works standards granted to single family dwellings shall also be granted to duplexes.
3. Protective Measures. Duplexes shall comply with protective measures (plans, policies, or regulations) adopted pursuant to statewide land use planning goals (e.g., environmental and natural hazard protections).

#### **E. Permitted Uses and Approval Process**

Duplexes are permitted outright on lots or parcels zoned for residential use that allow for the development of detached single family dwellings. Duplexes are subject to the same approval process as that for detached single family dwellings in the same zone and are subject only to clear and objective standards, approval criteria, conditions, and procedures. Alternatively, an applicant may choose to submit an application for a duplex subject to discretionary standards and criteria adopted in accordance with ORS 197.307, if such a process is available.

#### **F. Development Standards**

Except as specified below, duplexes shall meet all clear and objective development standards that apply to detached single family dwellings in the same zone (including, but not limited to, minimum and maximum lot size, minimum and maximum setbacks, and building height), unless those standards conflict with this code.

The following development standards are invalid and do not apply to duplexes being developed on lots or parcels zoned for residential use that allow the development of a detached single family dwelling:

1. Maximum Density. The jurisdiction's pre-existing density maximums and minimum lot sizes for duplexes do not apply.
2. Setbacks. A minimum front setback of greater than 20 feet or a minimum rear setback of greater than 15 feet except for those minimum setbacks applicable to garages and carports.
3. Off-Street Parking. Any off-street parking requirement.

## G. Design Standards

New duplexes shall meet all clear and objective design standards (e.g., entry orientation, window coverage, articulation, etc.) that apply to detached single family dwellings in the same zone, unless those standards conflict with this code. Facades of dwellings that are separated from the street property line by another dwelling are exempt from meeting building design standards.

Any design standards that apply only to duplexes are invalid.

## H. Duplex Conversions

Conversion of an existing detached single family dwelling to a duplex is allowed, pursuant to Section C, provided that the conversion does not increase nonconformance with applicable clear and objective standards.

## I. Figures

The following figures illustrate examples of possible duplex configurations. Other configurations may also be acceptable, provided the development meets the definition of duplex, pursuant to Section B.

*Figure 1. Stacked Duplex*

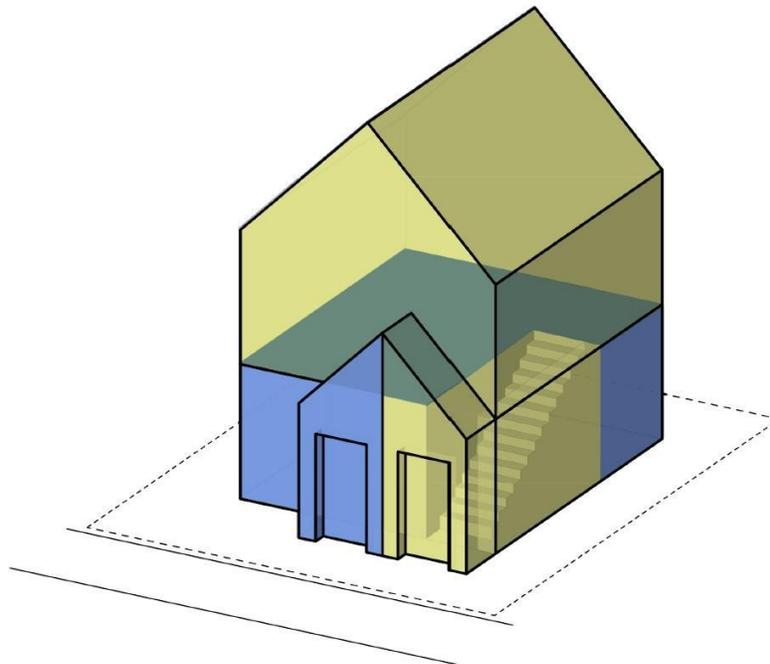


Figure 2. Side-by-Side Duplex

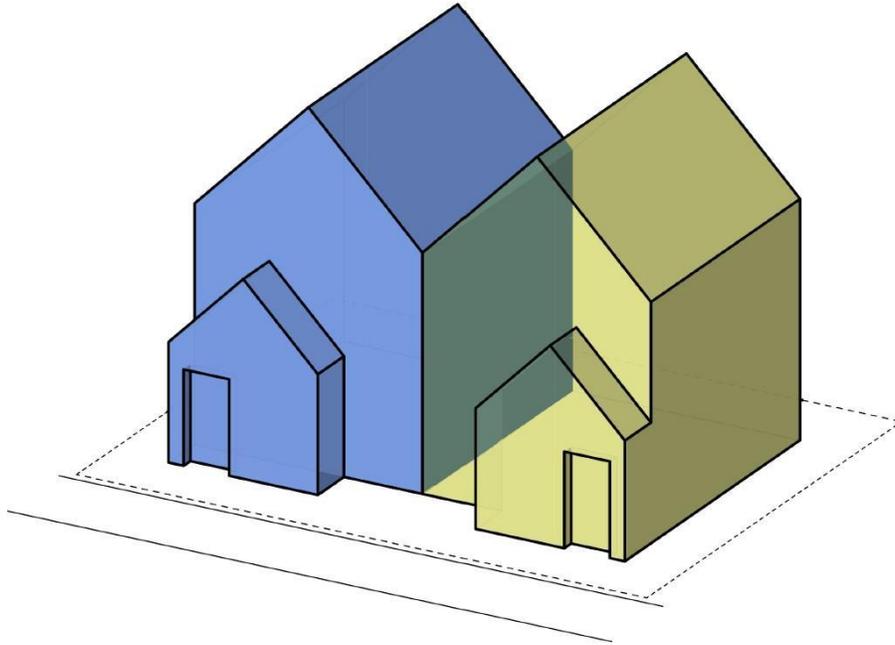


Figure 3. Duplex Attached by Garage Wall

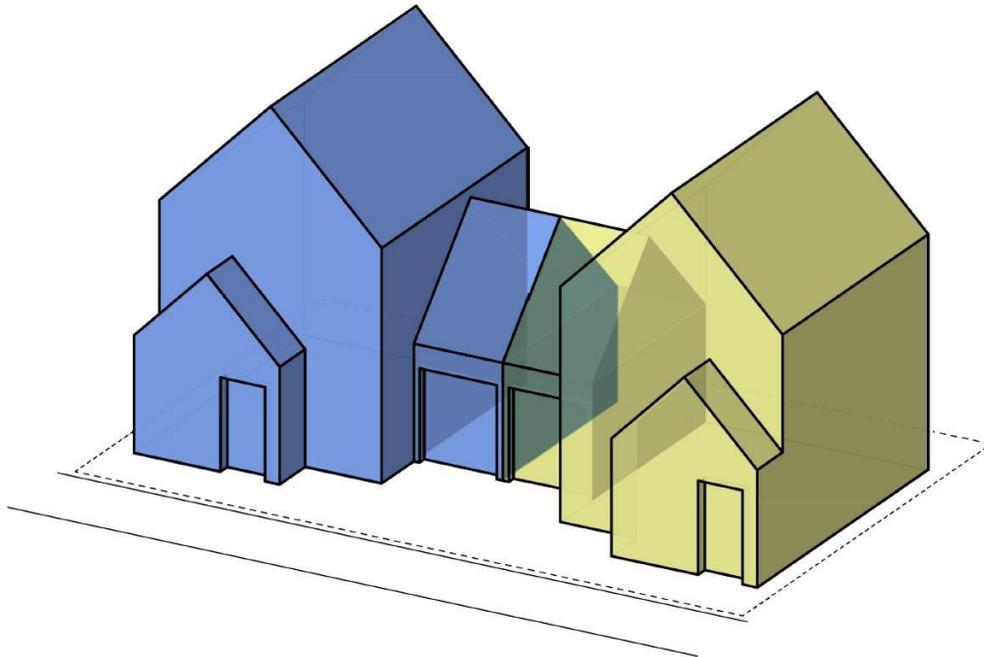


Figure 4. Duplex Attached by Breezeway



Figure 5. Detached Duplex Units Side-by-Side

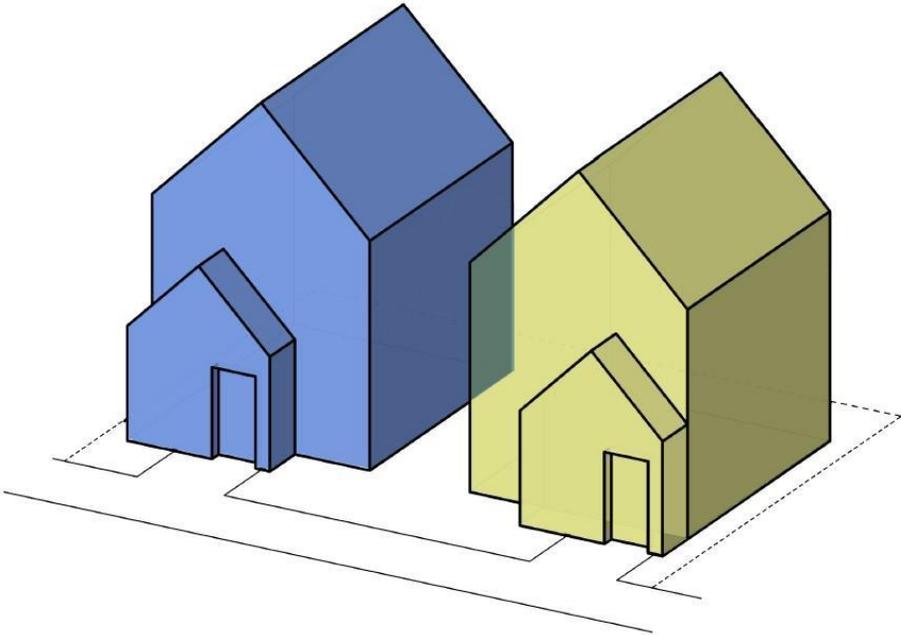
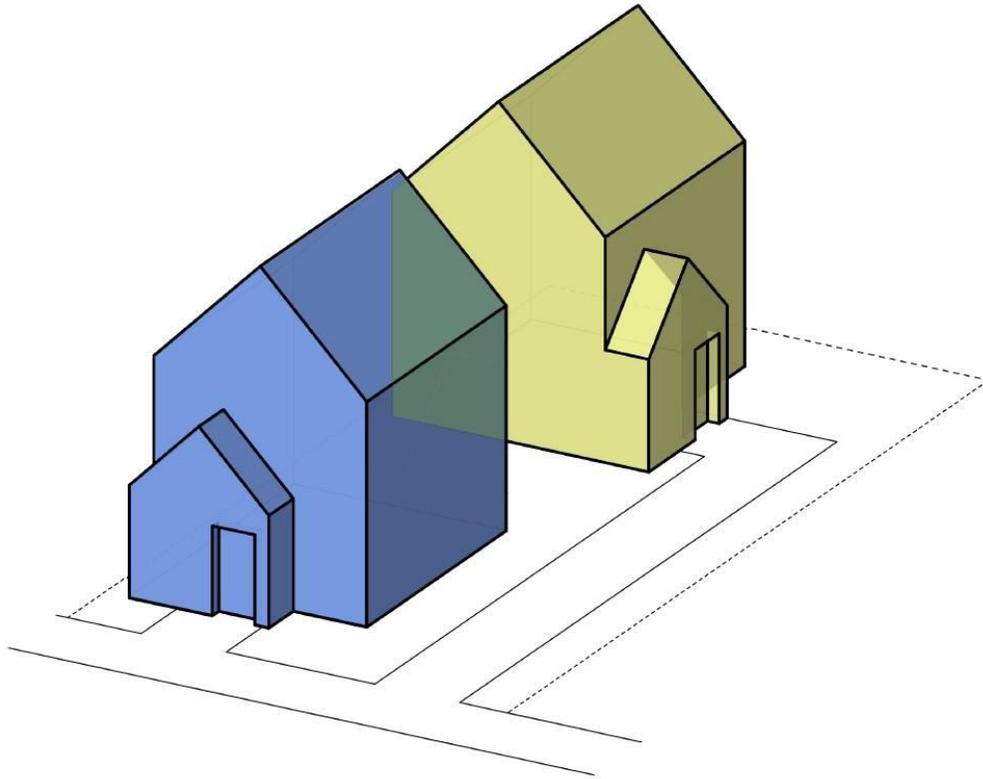


Figure 6. Detached Duplex Units Front and Back



**AFFIDAVIT OF POSTING**

**STATE OF OREGON**        )  
  )  
**County of Clackamas**    )        ss:  
  )  
**CITY OF CANBY**            )

I, Melissa Bisset, being first duly sworn, depose and say that I am the City Recorder for the City of Canby, Clackamas County, Oregon, a City duly incorporated under and by virtue of the laws of the State of Oregon.

That on the 18<sup>th</sup> day of May, 2022 the Council for said City of Canby held a Regular City Council Meeting, at which meeting Ordinance No. 1574 was read for the first time and passed by the vote of said Council and was then and there ordered posted in at least three (3) public and conspicuous places in said City for a period of five (5) days prior to the second reading and final vote on said Ordinance, as provided in Section 2 of Chapter 8 of the Charter of the City of Canby, and

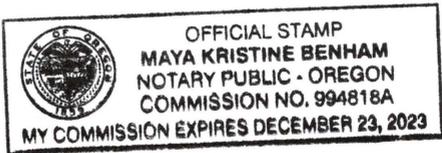
Thereafter, on the 20<sup>th</sup> day of May, 2022, I personally posted said Ordinance in the following three (3) conspicuous places, all within the said City of Canby, to wit:

- 1.     Canby Civic Building
- 2.     Canby Post Office
- 3.     City of Canby Web Page

That since said posting on the date aforesaid, the said Ordinance will remain posted in the said three (3) public and conspicuous places continuously for the period of more than five (5) days and until the very 1<sup>st</sup> day of June, 2022.

Melissa Bisset  
Melissa Bisset, City Recorder

Subscribed and sworn to before me this 20<sup>th</sup> day of May, 2022.



Maya Kristine Benham  
Notary Public for Oregon  
My Commission Expires: 12/23/2023