



# Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

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## NOTICE OF ADOPTED AMENDMENT

January 30, 2008



TO: Subscribers to Notice of Adopted Plan or Land Use Regulation Amendments

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Troutdale Plan Amendment  
DLCD File Number 002-07

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Copies of the adopted plan amendment are available for review at DLCD offices in Salem, the applicable field office, and at the local government office.

Appeal Procedures\*

### **DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: February 14, 2008**

This amendment was submitted to DLCD for review prior to adoption with less than the required 45-day notice. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

**\*NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE DATE SPECIFIED ABOVE.**

Cc: Gloria Gardiner, DLCD Urban Planning Specialist  
Darren Nichols, DLCD Community Services Division Manager  
Rich Faith, City Of Troutdale

<paa> ya

FORM 2

D L C D NOTICE OF ADOPTION

This form must be mailed to DLCD within 5 working days after the final decision per ORS 197.610, OAR Chapter 660 - Division 18

(See reverse side for submittal requirements)

DEPT OF

JAN 25 2008

LAND CONSERVATION AND DEVELOPMENT

Jurisdiction: City of Troutdale Local File No.: 07-094 (If no number, use none)

Date of Adoption: January 22, 2008 (Must be filled in) Date Mailed: January 24, 2008 (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: September 6, 2007

- Comprehensive Plan Text Amendment
X Land Use Regulation Amendment
New Land Use Regulation
Comprehensive Plan Map Amendment
Zoning Map Amendment
Other: (Please Specify Type of Action)

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached."

Text amendments to the Troutdale Development Code to define partitions; amend the procedures for land use actions, including land division; and establishing procedures for minor and major changes as they relate to conditional use permits

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "Same." If you did not give notice for the proposed amendment, write "N/A."

Same

Plan Map Changed from: N/A to N/A

Zone Map Changed from: N/A to N/A

Location: N/A Acres Involved: N/A

Specify Density: Previous: N/A New: N/A

Applicable Statewide Planning Goals: 2 - Land Use

Was an Exception Adopted? Yes: No: X

DLCD File No.: 002-07(16374)

Did the Department of Land Conservation and Development receive a notice of Proposed Amendment **FORTY FIVE (45) days prior to the first evidentiary hearing.** Yes:  No:

If no, do the Statewide Planning Goals apply. Yes:  No:

If no, did The Emergency Circumstances Require immediate adoption. Yes:  No:

Affected State or Federal Agencies, Local Governments or Special Districts: \_\_\_\_\_ Metro; \_\_\_\_\_

\_\_\_\_\_ Multnomah County \_\_\_\_\_

Local Contact: Rich Faith, Com. Dev. Dir Area Code + Phone Number: 503-674-7261

Address: 104 SE Kibling Avenue

City: Troutdale Zip Code+4: 97060

## ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision** per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO (2) Copies of the Adopted Amendment to:  
**ATTENTION: PLAN AMENDMENT SPECIALIST  
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT  
635 CAPITOL STREET NE, SUITE 150  
SALEM, OREGON 97301-2540**
2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the "Notice of Adoption" is sent to DLCD.
6. In addition to sending the "Notice of Adoption" to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only ; or call the DLCD Office at (503) 373-0050; or Fax your request to:(503) 378-5518; or Email your request to [Larry.French@state.or.us](mailto:Larry.French@state.or.us) - ATTENTION: PLAN AMENDMENT SPECIALIST.

## **ORDINANCE NO. 791**

### **AN ORDINANCE AMENDING CHAPTERS 1, 2, 6, AND 7, OF THE TROUTDALE DEVELOPMENT CODE PERTAINING TO PARTITION DEFINITIONS, PROCEDURES FOR DECISION MAKING, CONDITIONAL USE PERMITS, AND LAND DIVISION PROCEDURES (TEXT AMENDMENT NO. 38)**

#### **THE TROUTDALE CITY COUNCIL FINDS AS FOLLOWS:**

1. These proposed TDC amendments generally pertain to the following:
  - Definitions Related to Partitions
  - Procedures for Decision Making
  - Conditional Uses
  - Land Division
2. Because of citizen complaints about lack of notice to surrounding property owners when certain development applications were being processed and under review, the Troutdale City Council asked staff to examine our notification procedures and to determine what changes could be made to the Code to assure better notification in the future.
3. The Citizens Advisory Committee reviewed these proposed amendments over the course of four meetings between January and September 2007. The Committee discussed different options for addressing the Council's wishes and ultimately decided that rather than eliminate Type I land use actions, which require no public notification, the best solution would be to make Type I partition plats a Type II land use procedure and that any lot line adjustment involving a lot line that also serves as a zoning boundary be treated as a rezone subject to the Type IV land use procedure.
4. The Planning Commission held a public hearing on the proposal on November 28, 2007 and has recommended that the City Council adopt the proposed amendments
5. Amendments to Chapter 1, Definitions, and to Chapter 7, Land Division, are specifically intended to provide notification to surrounding property owners for certain land use actions that do not now require it.
6. Amendments to Chapter 2, Procedures for Decision Making, are needed housekeeping revisions to bring our land use procedures into conformance with state law and also to clarify the processes for the various types of land use applications.
7. Amendments to Chapter 6 provide greater flexibility in handling revisions to approved conditional uses than is currently allowed under the code.

8. Public need is satisfied because these amendments ensure more opportunities for surrounding property owners to be notified of potential development and to comment on these potential developments; they bring the code up to date with statutory provisions as well as more accurately reflecting the way land use applications are actually handled; and, they provide greater flexibility in granting extensions and modifications to approved conditional uses.

9. The amendments will not adversely affect the health, safety and welfare of the community because increased public notice of proposed partition plats could result in additional information from neighbors about potential impacts on the public health, safety and welfare that in the end could be mitigated to avoid any adverse effects.

10. The amendments do not conflict with any goals or policies from the Troutdale Comprehensive Plan; nor do they cause the TDC to be in noncompliance with the Metro Urban Growth Management Functional Plan.

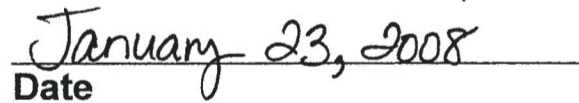
9. Notice of the public hearings has been provided in accordance with applicable law.

**NOW, THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TROUTDALE**

Section 1. The Troutdale Development Code is hereby amended to read as shown in Attachment A.

**YEAS: 6  
NAYS: 0  
ABSTAINED: 0**

  
Paul Thalhofer, Mayor

  
Date

  
Sarah Skroch, Deputy City Recorder

**Adopted: January 22, 2008**

**CHAPTER 1 - INTRODUCTORY PROVISIONS**

*There are no proposed amendments prior to this subsection.*

- 1.020 General Definitions. As used in this code, the following words and phrases shall have the following meanings:
- .89 Partition. Creation of two or three lots within a 12-month period.
  - .90 Pedestrian Walkway. An exterior hard-surfaced pathway intended for pedestrian use. Also referred to simply as a walkway.
  - .91 Principal Use. The primary purpose for which a lot, structure, or building is used.
  - .92 Professional Office. An office containing the activities such as those offered by a lawyer, architect, engineer, accountant, artist, teacher, real estate, or insurance sales.
  - .93 Processing. To subject to some special process or treatment, as in the course of manufacture; change in the physical state or chemical composition of matter; the second step in use of a natural resource. Examples include petroleum refining, oil shale crushing, retorting and refining, ore smelting, coal crushing and cleaning, saw mill, alfalfa pellet mills, food canning or packing, creation of glass, ceramic or plastic materials, gravel crushing, cement manufacture, and concrete batch plants. Processing occurs in both primary and secondary manufacturing.
  - .94 Quasi-Judicial Action. An action which involves the application of adopted policy to a specific development application or amendment.
  - .95 Reclamation Plan. Shall have the meaning contained in ORS 517.750 and OAR 632-30-025 (Department of Geology and Mineral Industries).
  - .96 Residential Facility. As defined in ORS 197.660, a facility which provides residential care and/or training and treatment for six to fifteen individuals.
  - .97 Residential Home. As defined in ORS 197.660, a facility which provides residential care and/or training and treatment for five or fewer individuals.
  - .98 Rowhouse. See Dwelling, Attached.
  - .99 School. A public, parochial, or private institution that provides educational instruction to students. This definition does not include trade or business schools or colleges.
  - .100 Shall. As used in this code SHALL is mandatory and MAY is permissive.
  - .101 Single-Family Dwelling or Single-Family Residence. See Dwelling, Single-Family Detached.

- .102 Site and Design Review Committee. A committee comprised of key staff members chaired by the Director to review applicable development proposals for compliance to the provisions of this code.
- .103 Street Lighting. The total system of wiring, poles, arms, fixtures, and lamps, including all parts thereof that are necessary to light a street or pedestrian way.
- .104 Street, Private. A thoroughfare or street providing a means of access to a property or properties which is not owned by the City or other jurisdictions.
- .105 Street, Public. A thoroughfare or right-of-way acquired for use by the public which affords a principal means of access to abutting property not less than 16 feet in width.
- .106 Subdivision. Creation of four or more lots.
- .107 Technical Review Committee. A committee comprised of key staff members chaired by the Director to review development proposals for technical compliance with this code and other applicable ordinances and regulations.
- .108 Townhouse or Townhome. See Dwelling, Attached.
- .109 Transit Facility. A facility intended to accommodate and assist transit users. Transit facilities include light rail transit stations, park and ride lots for transit riders, transit centers, transit shelters, bus turnout lanes, and transit stops.
- .110 Transit Street. Any street identified as an existing or planned bus or light rail transit route.
- .111 Tri-Plex. See Dwelling, Triplex.
- .112 Two-Family Dwelling. See Dwelling, Duplex.
- .113 Utility Facility, Major. Administrative offices and operation centers, wet system pump stations, sewage treatment plants and lagoons, electric generation facilities (other than small scale accessory wind turbines or solar panels intended to generate electricity for onsite uses), sanitary landfills, pump stations, substations (transmission and distribution), water towers and reservoirs, public wells (aboveground), telephone switching equipment, communication receiver and transmission facilities, telecommunication towers and poles, and drinking water treatment facilities.
- .114 Utility Facility, Minor. Street lights; underground lines and pipes; underground wells; transformers and regulator stations; closed system sanitary pump stations; and private, on-site facilities such as septic tanks, wells, and catch basins.
- .115 Warehouse. A building used primarily for the storage of materials or goods for use on the site or later distribution.

- .116 Windscreens. A fence-like structure, not to exceed six feet in height, on the north or east side of a residential building only, and used to reduce the wind velocity at exterior doors.
- .117 Yard. A required open space on a lot that is unoccupied and unobstructed except for permitted projecting building features and accessory buildings.
- .118 Yard, Front. An open space extending the full width of the lot between a building and the front lot line, unoccupied and unobstructed from the ground upward, except as authorized by this code.
- .119 Yard, Rear. An open space extending across the full width of the lot between the main building and the rear lot line, unoccupied and unobstructed from the ground upward, except as authorized by this code. Where there is no rear lot line, the depth of the rear yard shall be the distance from a ten-foot line parallel to the front lot line, measured from one side line to the other.
- .120 Yard, Side. An open space between any building and the side lot line, unoccupied and unobstructed from the ground upward, except as authorized by this code.
- .121 Yard, Street Side. An open space adjacent to a street that is not a front yard, unoccupied and unobstructed from the ground upward, except as authorized by this code.

***There are no further proposed changes to this chapter.***



**CHAPTER 2 - PROCEDURES FOR DECISION-MAKING**

2.000 Types of Procedures for Taking Public Action. Three separate procedures are established for processing development applications (quasi-judicial) and one procedure is established for public actions (legislative) which do not involve land use permits or require consideration of a plan amendment, land use regulation, or city policies. These are Types I-III and Type IV respectively (see Table below):

<b>DECISION-MAKING PROCEDURES</b>	
<p><u>Type I Procedure</u> (Objective decisions)</p> <p>Little, if any, discretion required</p> <p>Because of minimal or no effect on others, issuance of permits is not dependent upon involving others</p>	<p><u>Type II Procedure</u> (Objective decisions)</p> <p>Little, if any, discretion required</p> <p>Application of the standards may require knowing of some effect upon others</p> <p>Nearby property owners invited to respond to a development application</p>
<p><u>Type III Procedure</u> (Complex or subjective decisions)</p> <p>Discretion required</p> <p>Possible significant effect on some persons or broad effect on a number of persons</p> <p>In addition to the applicant, others affected are invited to present information</p>	<p><u>Type IV Procedure</u> (Complex or subjective decisions)</p> <p>Discretion required</p> <p>Possible significant effect on some persons or broad effect on a number of persons</p> <p>In addition to the applicant, others affected are invited to present information</p>

2.010 Procedures for Processing Permits.

- A. An application shall be processed under a Type I, II, III, or IV procedure as they are described in sections 2.090 to 2.120 of this chapter. The differences between the procedures are generally associated with the different nature of the decisions as described in Table the table in section 2.000.
- B. When an application and proposed development is submitted, the Director shall determine the type of procedure the code specifies for its processing and the potentially affected agencies. When there is a question as to the appropriate type procedure, or if the Director contemplates that persons being notified of the application can be expected to question the application’s compliance with the code, the application proposal shall be processed under the higher type procedure. An application shall be processed under the highest numbered procedure required for any part of the development proposal.

- 2.020 Coordination of Permit Procedure. The Director shall be responsible for the coordination of the permit application and decision-making procedure, and shall issue any necessary permits to an applicant whose application and proposed development is in compliance with the provisions of this code. Sufficient information shall be submitted to resolve all determinations that require furnishing notice to persons other than the applicant. In the case of a Type II or III procedure, an applicant may defer submission of details demonstrating compliance with standards where such detail is not relevant to the approval under those procedures. Before issuing any permits, the Director shall be provided with the detail required to establish full compliance with the requirements of this code.
- 2.030 Pre-Application Conference. The applicant or authorized representative shall request that the Director arrange a pre-application conference, unless the Director determines that the conference is not needed. The conference shall be held within 30 days of the request. The purpose of the conference shall be to acquaint the applicant with the substantive and procedural requirements of the code, provide for an exchange of information regarding applicable elements of the Comprehensive Land Use Plan and development requirements, arrange such technical and design assistance which will aid the applicant, and to otherwise identify policies and regulations that create opportunities or pose significant constraints for the proposed development. The Director, if requested by the applicant, shall provide the applicant with a written summary of the conference within ten days of the conference. The summary should include confirmation of the procedures to be used to process the application, a list of materials to be submitted, and the criteria and standards which may apply to the approval of the application.
- 2.040 Application Materials. An application shall consist of the materials specified in this section, plus any other materials required by this code.
- A. A completed application form.
  - B. An explanation of intent, stating the nature of the proposed development, reasons for the request, pertinent background information, information required by this code, and other information that may have a bearing in determining the action to be taken.
  - C. Proof that the property affected by the application is in the exclusive ownership of the applicant, or that the applicant has the consent of all parties in ownership of the affected property.
  - D. State identification number(s) of the property affected by the application.
  - E. List of affected property owners.
    - 1. Type II and III - All owners of properties within 250 feet of the property boundaries of the parcel(s) identified in an application.
    - 2. Type IV (quasi-judicial) - All owners of properties within 250 feet of the property boundaries of the parcel(s) identified in an application or as otherwise required by state law based on the nature of the application.

- F. Additional information required by other sections of this code because of the type of development proposal or the area involved.

2.050 Submission of Application.

- A. Application materials shall be submitted to the Director who shall have the date of submission indicated on the land use application form. Within 15 working days from the date of submission, the Director shall determine and shall notify the applicant in writing whether an application is complete. If the Director determines that the application is incomplete or otherwise does not conform to the provisions of this code, the Director shall notify the applicant in writing of what information is missing, and shall allow the applicant to submit the missing information.
- B. The application shall be deemed complete for the purpose of rendering a final action as required under ORS 227.178 upon receipt, within 180 days of the date the application was first submitted, of:
  - 1. All of the missing information;
  - 2. Some of the missing information and written notice from the applicant that no other information will be provided; or
  - 3. Written notice from the applicant that none of the missing information will be provided.
- C. On the 181<sup>st</sup> day after first being submitted, the application shall be void if the applicant has been notified of the missing information as required under subsection (A) of this section and has not submitted:
  - 1. All of the missing information;
  - 2. Some of the missing information and written notice that no other information will be provided; or
  - 3. Written notice that none of the missing information will be provided.
- D. The application fee that was submitted with an application that has been determined to be void, shall be forfeited.

2.060 Referral and Review of Applications. Within five days of deeming an application complete, the Director shall do the following:

- A. Transmit one copy of the application, or appropriate parts of the application, to applicable city departments and referral agencies for review and comment, including those responsible for determination of compliance with state and federal requirements. If a notified department or referral agency does not comment within 14 days, it is presumed to have no comment.
- B. Provide written notice to surrounding property owners as set forth in this chapter.

- C. If a Type III or IV procedure is required, provide for notice and hearing as set forth in Chapter 16, Public Deliberations and Hearings, of this code.

2.090 Type I Procedure.

- A. Under the Type I procedure, an application shall be processed without a need for a public hearing or notification of other property owners.
- B. Within 30 days of the date of acknowledging an application complete as set forth in section 2.050 of this chapter, the Director shall approve, conditionally approve, or deny the request. The decision of the Director shall be based upon the application, evidence, comments from city departments and referral agencies, and approvals required by others. The Director shall notify the applicant and, if required, others entitled to notice of the decision. The notice shall indicate the date that the decision will take effect and describe the right of appeal pursuant to Chapter 16, Public Deliberations and Hearings, of this code.
- C. The Director shall approve a development if he or she finds that applicable approvals by others have been granted and the proposed development, with or without conditions, otherwise conforms to the requirements of this code.
- D. The Director shall deny the development if required approvals are not obtained or the application otherwise fails to comply with code requirements. The notice shall describe the reason for denial.
- E. A decision of the Director under the Type I procedure may be appealed to the Planning Commission by an affected party in accordance with Chapter 16, Public Deliberations and Hearings, of this code except that, an appeal of a Type I decision is a review of the record supplemented by oral commentary relevant to the record presented by parties to the prior decision.

2.100 Type II Procedure.

- A. Under the Type II procedure, an application shall be processed without a need for a public hearing; however, the Director shall provide notification to all owners of property within 250 feet of the property boundaries of the parcel identified in the application. The notice shall summarize the nature of the application and shall list the relevant standards and criteria of the code. The notice shall invite persons to submit information relevant to the standards that are pertinent to the proposal within 14 days, giving reasons why the application should or should not be approved, or proposing modifications the person believes are necessary for approval according to the standards.
- B. Within 45 days of the date of acknowledging an application complete as set forth in section 2.050 of this chapter, the Director shall review any information received under subsection (A) of this section, make a findings, and make a decision on the application by approving, conditionally approving, or denying the application. The Director's decision may be appealed to the Planning Commission by the applicant or by any person who responded to the notice. The procedure for the appeal is in

accordance with Chapter 16, Public Deliberations and Hearings, of this code, except that review of a Type II decision is a review of the record supplemented by oral commentary relevant to the record presented by parties to the prior decision.

2.110 Type III Procedure.

- A. Under the Type III procedure, an application is scheduled for public hearing pursuant to Chapter 16, Public Deliberations and Hearings, of this code before the Planning Commission which may approve, approve with conditions, or deny an application. The form of notice and persons to receive notice are as required by the relevant sections of this code. At the public hearing, the staff, applicant, and interested persons may present information relevant to the criteria and standards pertinent to the proposal, giving reasons why the application should or should not be approved, or proposing modifications and the reasons the person believes the modifications are necessary for approval. The Planning Commission may attach certain development or use conditions beyond those warranted for compliance with the standards in granting an approval if the Planning Commission determines the conditions are necessary to avoid imposing burdensome public service obligations on the City, to mitigate detrimental effects to others where such mitigation is consistent with an established policy of the City, and to otherwise fulfill the criteria for approval. If the application is approved, the Director will issue any necessary permits when the applicant has complied with the conditions set forth in the final order and other requirements of this code.
- B. A decision of the Planning Commission may be appealed to the City Council by a party to the hearing in accordance with Chapter 16, Public Deliberations and Hearings, of this code.

2.120 Type IV Procedure. The City Council is the decision-making body under this procedure after the Planning Commission has forwarded its recommendation to the Council. Actions taken under this procedure may be either quasi-judicial or legislative. This procedure is for situations that do not involve approval of specific development proposals or when consideration of a development proposal requires consideration of a plan amendment, adoption of a land use regulation, a planned development overlay, or a master development plan required by a Master Planned Mixed Use (MPMU) Plan designation.

- A. Under the Type IV procedure, the Director shall first schedule a public hearing pursuant to Chapter 16, Public Deliberations and Hearings, of this code and this section before the Planning Commission. Following action by the Planning Commission, the Director shall schedule a public hearing before the City Council. The form of notice and persons to receive notice are as required by the relevant sections of this code. At the public hearings the staff and interested persons may present testimony relevant to the proposal. If pertinent, they may give information on whether the proposal does or does not meet appropriate criteria and standards for approval, or they may give proposals for modifications they consider necessary for approval. If criteria are involved, the Planning Commission shall make a finding for each of the criteria applicable, including whether the proposal conforms to applicable Comprehensive Land Use Plan goals and policies. A written report and

recommendation shall be submitted to the City Council. The decision of the City Council shall also address each of the applicable criteria.

- B. If the Planning Commission has recommended against a legislative proposal, or has failed to act on a legislative proposal, the City Council may terminate further consideration of the proposal by a majority vote of the Council. For a proposal on which the Planning Commission has made a favorable recommendation, and for other proposals that have not been terminated, the City Council shall conduct a public hearing pursuant to Chapter 16, Public Deliberations and Hearings, of this code. The Director shall set a date for the hearing. The form of notice and persons to receive notice are as required by the relevant sections of this code. At the public hearing, the staff shall review the report of the Planning Commission and provide other pertinent information. Interested persons shall be given the opportunity to present new testimony and information relevant to the proposal that was not heard before the Planning Commission, make final arguments why the matter should or should not be approved and, if approved, the nature of the provisions to be contained in approving action.

2.130 Legislative Enactments Not Restricted. Nothing in this chapter shall limit the authority of the City Council to make changes in zoning districts boundaries or development regulations as part of some more extensive revision of the Comprehensive Land Use Plan or the implementing ordinances. Nothing in this chapter shall relieve a use or development from compliance with other applicable laws.

2.140 Expedited Land Division. A land division shall be processed pursuant to the expedited land division procedures set forth in ORS Chapter 197 if:

- A. The land division qualifies as an expedited land division as that term is defined in ORS Chapter 197; and
- B. The applicant requests in writing that the land division to be processed as an expedited land division.

**CHAPTER 6 - PERMITS AND PROCEDURES****6.300 CONDITIONAL USE CU**

- 6.310 Purpose. This section provides for uses specified in the zoning districts as conditional uses. A conditional use permit may be considered under the Type III procedure provided that any such conditional use would not be detrimental to the adjoining properties or to the purpose and intent of the Comprehensive Land Use Plan.
- 6.320 Scope. Approval of a conditional use permit shall not constitute a zone change and shall be granted only for the specific use requested. Any change of use, modification, or limitation of conditions from an approved conditional use shall be subject to Planning Commission approval after a public hearing, except as authorized in section 6.395 of this chapter.
- 6.330 Application. A written application for a conditional use by a property owner or authorized representative shall be filed with the Planning Division indicating the section of this code under which the conditional use is sought on forms provided by the Planning Division. The application shall include site plans, drawn to scale, showing the dimension and layout of the proposed use with other information and drawings as may be required to provide an understanding of the proposed conditional use and its relationship to surrounding property.
- 6.340 Approval Criteria. The Planning Commission may approve an application, approve with modifications, or deny an application for a conditional use after a hearing. The applicant must submit evidence substantiating that all requirements of this code relative to the proposed use are satisfied and demonstrate that the proposed use also satisfies the following criteria:
- A. The use is listed as a conditional use in the underlying district, or approved by the Planning Commission for consideration as a conditional use.
  - B. The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, existence of improvements, and natural features.
  - C. The proposed use of the site is timely, considering the adequacy of transportation systems, public facilities, and services existing or planned for the area affected by the use.
  - D. The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the underlying district.
  - E. The proposed use will provide adequate open space, landscaping, and aesthetic design to mitigate any possible adverse effect on surrounding properties and uses.
  - F. The proposed use will not result in use of the land for any purpose which may create, or cause to be created, any public nuisance including, but not limited to, air, land, or water degradation, noise, glare, heat, vibration, or other considerations which may be injurious to public health, safety, and welfare.

- G. The proposal satisfies the goals and policies of the Comprehensive Land Use Plan which apply to the proposed use, as well as the purposes of this section and applicable provisions of this code.
- H. Owners of property within 250 feet of the boundary of the subject property have been notified of the hearing.

6.350 Conditions. The Planning Commission may attach to an approved conditional use reasonable conditions, restrictions, or safeguards that would uphold the purpose and intent of this section and mitigate any adverse impact upon adjoining properties which may result by reason of the approved conditional use. A list of conditions may include, but is not limited to, the following:

- A. Increasing the required lot size or yard dimensions.
- B. Increasing street width.
- C. Increasing the number of off-street parking or loading spaces or area.
- D. Improving public facilities such as:
  - 1. Water supply;
  - 2. Sanitary sewers;
  - 3. Storm drainage;
  - 4. Sidewalks, curbs, and other street improvements; and
  - 5. Fire hydrants.
- E. Controlling the location and number of vehicular access points to and from the site.
- F. Limiting lot coverage or height of buildings.
- G. Undergrounding of utilities.
- H. Public safety and crime prevention measures.
- I. Requiring landscaping, fencing, diking, screening, or berms.
- J. Limiting the number, size, and location of signs.
- K. Land dedication or money in lieu of dedication for public purposes.
- L. Bonds or other suitable security to ensure that requirements are met.
- M. Submittal of final detailed plans indicating conformance with conditions.



- 6.360 Conditional Use Permit. A conditional use permit shall be obtained before site development. The permit shall specify any conditions, limitations, and/or restrictions imposed by the Planning Commission in addition to those specifically set forth in this section. [Adopted by Ord. 550, ef. 9/25/90]
- 6.370 Expiration. Approval of a conditional use permit shall be void after two years, or such lesser time as the Planning Commission may specify, unless substantial construction has taken place. However, the Director may grant a one-time, one-year extension if the applicant requests such an extension before the expiration of the initial time limit. Extensions beyond one-year may be granted by the Planning Commission if the applicant requests such an extension before the expiration of the initial time limit or the expiration of the Director's one-year extension, where one has been granted.
- 6.380 Building Permit. A building permit for all or any portion of a conditional use shall be issued only on the basis of the plan as approved by the Planning Commission. Any change in the approved plan shall be submitted to the Planning Commission as a new application, except as authorized in section 6.395 of this chapter.
- 6.390 Revocation. A conditional use permit shall be subject to revocation by the Planning Commission if the application is found to include false information, or if the conditions of approval have not been complied with or are not being maintained.
- A. The Planning Commission shall hold a public hearing in order for the applicant to show cause why the permit should not be revoked.
  - B. If the Planning Commission finds that the conditions of approval have not been complied with or are not being maintained, a reasonable time shall be given for making correction. If corrections are not made within that time, revocation of the conditional use permit shall become effective ten days after the time specified.
  - C. Reapplication for a conditional use which has been denied or revoked cannot be made within one year after the date of the Planning Commission's action, except that the Planning Commission may allow a new application to be considered if there is new evidence or a change in circumstances.
- 6.395 Changes and Modifications
- A. Minor Changes.
    - 1. Minor changes to an approved conditional use may be approved under a Type I or a Type II procedure depending on the nature of the change, provided that such changes meet all of the following:
      - a. Do not violate any previous conditions of approval for the conditional use.
      - b. Do not change the use.
      - c. Do not change the boundaries of the development.

- d. Individual or cumulative changes do not increase the floor area on the site by more than ten percent, up to a maximum of 10,000 square feet, or in those cases not involving structures, individual or cumulative changes do not increase the exterior improvement area on the site by more than ten percent, up to a maximum of 10,000 square feet.
  - e. Do not increase traffic volumes to the site more than ten percent over current conditions.
- B. Major Changes. Any change to an approved conditional use that does not qualify as a minor change shall be considered a major change. Major changes shall be processed as a new application and shall be made in accordance with the procedures specified in this chapter.

**CHAPTER 7 - LAND DIVISION**

*There are no proposed amendments prior to this subsection.*

**7.030** Procedures.

- A. Property Line or Lot Line Adjustment. Property line or lot line adjustments shall be a Type I procedure if the resulting parcels comply with standards of this code and section 7.040, Approval Criteria, of this chapter.
- B. Type II Partition. A partition shall be a Type II procedure when satisfactory street conditions exist and the resulting parcels comply with standards of this code and section 7.040, Approval Criteria, of this chapter. Satisfactory street conditions exist when the Director determines one of the following:
  - 1. The partition does not create additional public streets.
  - 2. An existing street or a new proposed street need not continue beyond the land to be partitioned in order to complete an appropriate street system or to provide access to adjacent property.
  - 3. The proposed street layout is consistent with a street pattern adopted as part of the Comprehensive Land Use Plan or an officially adopted City street plan.
- C. Type II Replat (Minor Revised Plat). A minor replat of an existing platted subdivision shall be a Type II procedure when the street(s) is existing and no extension or reconstruction/realignment is necessary, the replat does not increase the allowable density, the resulting parcels comply with standards of this code and section 7.040, Approval Criteria, of this chapter, and the replat involves no more than six lots.
- D. Type III Partition. A partition shall be a Type III procedure if unsatisfactory street conditions exist. The Director shall determine if unsatisfactory conditions exist based on one of the following criteria:
  - 1. An existing street or a new proposed street will be extended beyond the parcels to be partitioned to complete a street system or provide access to adjacent property.
  - 2. The proposed street layout is inconsistent with a street pattern adopted as part of the Comprehensive Land Use Plan or officially adopted City street plan.
- E. Type III Replat (Major Revised Plat). A major replat involving the realignment of lot lines (including a re-subdivision of six or more lots, even if the replat does not increase the allowable density) shall be a Type III procedure. All parcels resulting from the replat must comply with the standards of this code and section 7.040,

Approval Criteria, of this chapter. Any replat involving the creation, extension, or modification of a street shall be processed as a major replat.

- F. Type III Subdivision. Creation of a subdivision shall be a Type III procedure.
- G. Type IV Land Division. A lot line adjustment, partition or subdivision that modifies a property line that also serves as a zoning district boundary shall be treated as a Zoning District Map amendment and shall be a Type IV quasi-judicial procedure.

***There are no further changes until section 7.130.***

7.130 Tentative and Final Plats for Partitions.

- A. Standards for partitions are the same as for subdivision tentative and final plats with the following exceptions:
  - 1. Data requirements do not include a “proposed name” for the partition but must reference the “Plat No.” and City case file number.
  - 2. “Proposed improvements” need be shown only where applicable.
- B. Standards for partitions may be modified by the Director to reduce or eliminate non-essential requirements when warranted by the application.

***There are no further changes until subsection 7.180(C).***

7.180 Design Requirements.

- C. Underground Utilities. All subdivisions or partitions shall be required to install underground utilities including, but not limited to, electrical, cable television, and telephone wiring. The utilities shall be installed and easements provided pursuant to the requirements of the utility company. Electric power transmission lines, or primary feeder lines, and transformer vaults shall be underground.

***There are no further changes until subsection (L(7)).***

- L. Streets. No subdivision or partition shall be approved unless the development has frontage or approved access to an existing or proposed public street. In addition, all proposed public streets shall be designed, improved, and in conformance with the *City of Troutdale Construction Standards for Public Works Facilities*. The Director of Public Works must approve the construction drawings.
  - 7. Access to arterials. When a partition or subdivision abuts an existing or proposed arterial, access to such streets may be limited by one of the following means:
    - a. The subdivision of lots so as to back onto the arterial and front onto a parallel local street.

- b. A series of U-shaped streets, short loops, or cul-de-sacs entered from, and designed generally at, right angles to such a parallel street, with the rear lines of their terminal lots backing onto the arterial.

***There are no further changes until subsection 7.190(E)(1).***

7.190 Requirements for Bike and Pedestrian Access. Any Type II land divisions where further divisions are possible, and all Type III land divisions, shall meet the following requirements for future street plan, connections, spacing, and cul-de-sacs:

E. Exemptions.

1. A future street plan specified in subsection (A) of this section is not required for partitions of residentially zoned land dividing a property into parcels none of which may be redivided under existing minimum lot size standards.

***Section 7.350 is included as it is referenced in a change in section 7.410.***

7.350 Guarantee.

- A. The subdivider may elect to complete all required public improvements and all other items required as part of the construction drawings and applicable conditions of approval (hereinafter "improvements") prior to requesting approval of the final plat. In such case, no performance guarantee will be required. All improvements must be completed in accordance with City standards, inspected, and accepted by the City prior to approval of the final plat. A warranty of workmanship and materials shall be required as specified in section 7.410, Certificate of Completion, of this chapter. All improvements shall remain the property of the subdivider until formally accepted by the City.
- B. If the subdivider elects to file the partition map or subdivision plat prior to the completion and acceptance of the improvements, the subdivider shall secure a surety bond, present a cashier's check or certified check for deposit with the City, or provide an Irrevocable Letter of Credit with the City as beneficiary as assurance for faithful performance of the required improvements (hereinafter collectively referred to as "financial assurance"). The value of the financial assurance shall be equal to 110% of the estimated value of the improvements. The value of the financial assurance shall not diminish during the life of the instrument. All estimates furnished by the subdivider shall be verified by the Director of Public Works.
- C. In the event the subdivider fails to satisfactorily complete all improvements within the time authorized and the City desires to complete such improvements, the City shall be authorized to use the cashier's check, certified check, or Irrevocable Letter of Credit to complete the improvements, or to bring an action or claim on the surety bond.
- D. If the amount of the financial assurance exceeds costs and expenses incurred by the City to complete the improvements, the City shall release the remainder. If the

amount of the financial assurance is less than the cost and expenses incurred by the City, the subdivider shall be liable to the City for the difference.

***There are no further changes until section 7.410.***

7.410 Certificate of Completion. The Certificate of Completion shall be issued when the following items are completed:

- A. The Director of Public Works has verified that the required public improvements have been constructed in accordance with the applicable construction drawings, standards, and specifications.
- B. The subdivider has submitted a financial assurance (as defined in section 7.350 of this chapter) in an amount which is not less than ten percent of the cost of the improvements. The financial assurance shall run for a period of at least two years following issuance of the Certificate of Completion by the City and shall require the subdivider to promptly correct all deficiencies of workmanship and materials within the development for that period. The City Council may require a larger financial assurance, or require the financial assurance to run for a longer period.
- C. The subdivider has submitted a financial assurance equal to the total estimated cost, guaranteeing the placement of the final lift of asphaltic concrete on all streets constructed with the development. The subdivider shall place the final lift on all streets after 90% of the buildings within the development have received Certificates of Final Inspection or two years have transpired since the issuance of the Certificate of Completion, whichever occurs first.

Community Development Department  
City of Troutdale  
104 SE Kibling Street  
Troutdale, OR. 97060



*Plan Amend. Spec.  
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