



Code Maintenance Project

Index – Chapter 40

Introduction

The purpose of this table is to provide an overview of the proposed Beaverton Development Code changes being considered with the Code Maintenance Project, to be considered by the Beaverton Planning Commission on July 31, 2024 and Beaverton City Council on September 3, 2024.

This is a list of proposed changes and a summary of the reason for the proposed changes. Additional changes may also occur in response to Planning Commission or City Council feedback at the public hearings.

This table corresponds to proposed "redlines" which are also available as exhibits to the staff report. This index is intended to provide a brief description of the Development Code changes being considered. Highlighted portions of the table are to identify additions or changes since the distribution of earlier shared drafts of proposed changes for the Commission to more easily identify updates from earlier versions.

Draft redlines can be found [here](#).

Other Code Section(s)	Summary of Proposed Text Amendment	Staff Comments
CHAPTER 40 - APPLICATIONS		
Chapter 40	Replace the words "Land Uses" when referring to zoning districts with "Zoning Districts" throughout Chapter 40.	Throughout the Code, including Chapter 40, zoning districts are often referred to as "land use districts" or "Chapter 20 (Land Uses)". In addition, Chapter 20 also includes a table of uses, labeled "Land Uses". Furthermore, "land use" can also refer to the Comprehensive Plan land use designations. To eliminate confusion and to provide consistency, the proposed change includes replacing the words "land uses" when referring the districts with "zoning districts".
Section 40.10.15.1.A.4	Update the Minor Adjustment threshold to apply to all of Section 60.30 – Off-Street Parking , not just 60.30.10 – Number of Parking Spaces.	Currently the thresholds for a Minor Adjustment application only allow for adjustments to 60.30.10 - Number of Required Parking. The thresholds for a

		<p>Major Adjustment application applies to all of Section 60.30-Off-Street Parking. By expanding the threshold to apply to all of Section 60.30-Off-Street Parking, applicants can request adjustments to not only the number of parking spaces but to their dimensions as well.</p>
<p>Section 40.10.15.</p>	<p>Add a new adjustment application for housing.</p>	<p>SB1537 requires cities to grant adjustments to siting and design standards for housing developments that result in a minimum of 17 dwelling units per acre. The procedure type prescribed to these adjustments in SB1537 is "limited land use decisions" which is a Type 2 process. The new proposed Housing Adjustment application is proposed to address the site development standards outlined in SB1537, including setbacks and height, for which cities must grant an adjustment to. Although the Code includes four other adjustment applications that also provide a way to adjust site development standards, the approval criteria in those adjustment applications require that the applicant demonstrate a site-specific hardship or that the housing development is for regulated affordable housing only. SB1537 expands the eligibility of the adjustments beyond these parameters therefore the new proposed Housing Adjustment application does not include site-specific hardship criteria or limit the adjustments to regulated affordable housing</p>

		only. Additionally, the proposed application procedure is a Type 1, as no discretion is required in determining compliance with the approval criteria.
Section 40.15.15.2 and Section 40.15.15.4	The proposed amendment exempts non-habitable buildings/structures up to 1,000 square feet from Modification of a Conditional Use applications.	The current thresholds for a Modification of a Conditional Use require the application when any amount of floor area is added. Therefore, the addition of a storage shed or other non-habitable structure to the site would require a Type 2, or greater, review including public notice and potentially a public hearing. The proposed change would result in the administrative review, without public notice or hearing, for small non-habitable structures, that do not generate additional vehicular traffic, students, or events, as applicable to the specific conditional use.
Section 40.20.10.2.C.	The proposed amendment clarifies that development within the Downtown Zoning Districts is not subject to Design Review.	Developments within the Downtown Zoning Districts are subject to the Downtown Design Review applications in Section 40.23 instead.
Section 40.20.10.3.B	The proposed amendment specifies that residential accessory structures, as described in Section 60.50.05, are exempt from Design Review.	Within the current code, the applicability of Section 60.50.05 is unclear. The proposed change makes a distinction between residential accessory structures associated with permitted uses in the RMA, RMB, and RMC zones and single-detached dwellings permitted in other zones, and all other accessory structures for other uses and uses outside the RMA, RMB and RMC zones. The amendment also proposed that accessory structures that

		comply with Section 60.50.05 Residential Accessory Structures, are exempt from Design Review and Downtown Design Review.
Section 40.20.10.3.G	Food cart pods are exempt from Design Review and subject to different standards in Section 60.11 .	Proposed change would clarify that food cart pods and their amenities, as described in Section 60.11, are exempt from Design Review.
Sections 40.20.10 , 40.21.10 , 40.23.10 .	The proposed amendment would exempt the demolition or reduction in square footage of a building from Design Review, Single-Detached and Middle Housing Design Review and Downtown Design Review.	The proposed amendment would result in no land use application review for the complete demolition of a structure. Although the proposed amendment also includes exempting partial demolitions, other thresholds in the Design Review, Single-Detached and Middle Housing Design Review and Downtown Design Review applications may still apply. For example, if a partial demolition results in the removal of Permanent Architectural Features necessary to comply with applicable Design Standards, then a Design Review application would still be required. The purpose of exempting demolitions and partial demolitions from the all the design review applications, is that there are no standards to apply when a building is completely demolished, and partial demolitions are often necessary to accommodate new development.
Section 40.20.10.3 and Section 40.23.10.4 .	The proposed amendment adds an exemption for accessory structures, non-habitable buildings, or permanent structures with a footprint of less than 120 square feet and no	Structures under 120 square feet are exempt from Building permits but currently require Design Review. Furthermore, most Design Review standards are intended for larger

	<p>greater than one-story, from Design Review.</p>	<p>buildings (i.e. Design Review standards in Section 60.05.15.1 refer to limiting building lengths to 200 feet, adding articulation, windows and changes in material types, spacing of material types and limiting undifferentiated areas to 150 square feet – standards which are intended to provide visual interest to larger buildings), which makes it difficult or impossible for small structures to meet Design Standards. The proposed change would exempt accessory structures, non-habitable buildings, or permanent structures not considered buildings with a footprint of 120 square feet or less and no greater than one story, from Design Review. These size limitations are drawn from the Building Code. These structures are proposed to have a minimum ten (10) foot setback from property lines abutting street frontages, and five (5) foot setback from all other property lines, to reflect other accessory structure requirements in the Code for Accessory Dwelling Units (Section 60.50.03), and the proposed changes to Residential Accessory Structures (Section 60.50.05), unless the underlying zone is less restrictive. Like other structures, they are also prohibited from being placed over easements.</p>
<p>Section 40.20.10.3</p>	<p>Clarify that Permitted and Conditional Uses in the Downtown zoning districts are exempt from Design Review.</p>	<p>Development within the Downtown zoning districts is subject to Downtown Design Review (Section 40.23) instead.</p>

<p>Sections 40.20, 40.21, 40.23 and 60.50.05</p>	<p>Establish clearer distinction between different types of accessory structures, non-habitable buildings and structures not considered buildings and which standards apply to them.</p>	<p>New standards in Section 60.50.05 are proposed to apply only to Single Detached Dwellings and Middle Housing types in the RMA, RMB and RMC zones and to existing single detached dwellings in all other zones. All other accessory structures, unless expressly exempt, are therefore proposed to be subject to Design Review or Downtown Design Review.</p>
<p>Section 40.20.15.2</p>	<p>The proposed amendment includes modifying the Design Review Two application thresholds and approval criteria to allow projects to address up to three Design Review Guidelines, in lieu of three applicable Design Review Standards.</p>	<p>Currently, under a Design Review Two application, all applicable Design Standards must be met. However, both the Downtown Design Review Two and Single-Detached and Middle Housing Design Review Two applications allow for limited discretion. The proposed amendment would make the Design Review Two and Downtown Design Review Two applications procedurally equivalent by allowing projects to address up to three Design Review Guidelines through the Type 2 process rather than having to go through the Type 3 process which is currently required when one or more Design Review Guidelines are addressed. The proposed changes also include adding a threshold to the Design Review Two application which allows projects that meet the Design Review Compliance Letter threshold to address up to three Design Review Guidelines and be processed as a Design Review Two.</p>

<p>Section 40.20.15.2</p>	<p>Modify Design Review Three thresholds 8 and 9 to clarify that projects that meet Design Review Compliance or Design Review Two thresholds can be reviewed as a Design Review Three application if they address more than three Design Review Guidelines.</p>	<p>The proposed text is intended to provide clarity to existing thresholds.</p>
<p>Section 40.21.10.1</p>	<p>Clarify that the Single Detached and Middle Housing Design Review applications only apply to single-detached dwellings and middle housing developments within the RMA, RMB and RMC zones and re-direct readers to Design Review under Section 40.20 and Downtown Design Review under Section 40.23 for development outside the RMA, RMB and RMC zones or non-residential and conditional uses in the RMA, RMB and RMC zones.</p>	<p>There are different kinds of design review that apply to different development types in different zones, this change aims to clarify the correct application and process types.</p>
<p>Section 40.21.10.4.B</p>	<p>The proposed amendment adds text to reflect the proposed new approach to accessory structures and how they are reviewed. The proposed amendment includes exempting residential accessory structures (accessory structures for permitted uses in the RMA, RMB and RMC zones as well as existing single-detached dwellings in other zones) from the Single-Detached and Middle Housing Design Review (SDMHDR) applications. However, carports within cottage cluster developments and detached garages are accessory structures which would still be subject to the SDMHDR applications.</p>	<p>Generally, there are no SDMHDR standards that apply to residential accessory structures. Furthermore, there are no thresholds that would have required the review of any accessory structure under the SDMHDR applications. The proposed amendments make it clear that accessory structures which comply with Section 60.50.05 (as proposed to be revised with this Code Maintenance Project) are exempt from the SDMHDR, with the exception of carports for cottage clusters and detached garages which both have applicable standards in the SDMHDR Section 60.05.60.</p>
<p>Section 40.21.15.1A.1-2</p>	<p>Modify existing thresholds #1 & 2 to apply only to elevations that</p>	<p>The current threshold require a SDMHDR application even when modifying a window or</p>

	are subject to the SDMHDR standards.	door on an elevation that's not subject to any SDMHDR design standards. It is inefficient to review changes to a building when there are no applicable standards to apply to those changes, therefore the thresholds have been modified to be narrower in scope and applicability.
Section 40.21.15.1.A and Chapter 90	Change the threshold for building additions to "floor area additions" instead.	The BDC defines "Building" very broadly. Therefore, adding a deck to a house is considered a building addition, requiring a SDMHDR. By changing the threshold to "floor area" we would only be requiring review when enclosed floor area, meeting the new proposed definition of "floor area" is proposed.
Section 40.21.15.1.A	Add a threshold to the Single-Detached and Middle Housing Design Review One application that captures changes to onsite parking or circulation areas.	There are relevant standards related to driveway widths and garage widths which currently would not be subject to SDMHDR review because there are no corresponding thresholds to require the review. This proposed threshold would capture those changes. Current design standards related to garages and off-street parking areas for Single-Detached Dwellings, Duplexes, Triplexes and Quadplexes can be found in Table 60.05.60.2.S7, for Townhomes in Table 60.05.60.3.S8 and Cottage Clusters in Table 60.05.60.4.S25.
Section 40.21.15.1.A	Add a threshold to the SDMHDR One application that captures the addition of new carports to a cottage cluster development.	Cottage clusters have specific standards for carports in Table 60.05.60.4.S29/G29. Adding this threshold to the SDMHDR application would clarify that a SDMDR application is required when a new carport is added

		to a cottage cluster development.
Section 40.21.15.1.A	Add a threshold to the SDMHDR One application that captures the addition of new detached garages.	Detached garages are excluded from Section 60.50.05 Residential Accessory Structures and is subject to SDMHDR standards in Section 60.05.60 instead. To ensure new garages meet applicable standards, in Section 60.05.60 and maximum floor area standards in Section 20.05.15. The addition of the this threshold is necessary to review and determine the new garage's compliance with applicable standards.
Section 40.21.15.1	Add a reference to Section 20.25.05 Minimum Residential Density to the approval criteria for a Single Detached and Middle Housing Design Review One application.	This is intended to clarify that housing reviewed under the SDMHDR One application can also address Section 20.25.05.D Exceptions to Minimum Density Standards in the RMA, RMB, and RMC districts. The SDMHR Two and Three applications already include similar approval criteria. Please note, changes to Section 20.25.05 are also proposed with this Code Maintenance Project.
Section 40.2.15.2	Clarify the threshold for a Single Detached and Middle Housing Design Review Two application to allow more than one Type 2 design guideline to be addressed.	The current threshold could be interpreted that only one Type 2 guideline can be addressed under a SDMHDR Two application, which is not the intent.
Section 40.21.15.3.A.1	Clarify the threshold for a Single Detached and Middle Housing Design Review Three application to allow more than one design guideline to be addressed.	The current threshold could be interpreted to mean that only one guideline can be addressed, which is not the intent.
Section 40.23.10.4.D	Food cart pods are exempt from Downtown Design Review and subject to different standards in Section 60.11 .	Proposed change would clarify that food cart pods and their amenities, as described in Section 60.11.10.2 , are exempt from Downtown Design Review.

<p>Section 40.23.10.4</p>	<p>Exempt existing single-detached dwellings, and their accessory structures, from Downtown Design Review.</p>	<p>Existing single detached dwellings are already exempt from Design Review in MR, Commercial, Industrial, and Multiple-Use zoning districts. Furthermore, it would be difficult for existing single-detached dwellings to meet most of the Downtown Design Standards as they were intended for higher density and intensity structures. The proposed changes include exempting their accessory structures from Downtown Design Review as well but require that they comply with Section 60.50.05 Residential Accessory Structures.</p>
<p>Section 40.23.10.4</p>	<p>Exempt modifications of a historic landmark from Downtown Design Review unless new floor area is proposed. The new floor area as well as changes to onsite lighting, roof-mounted screening and detached service areas shall be subject to Downtown Design Review.</p>	<p>The purpose of Historic Review (Section 40.35) is to preserve, enhance and perpetuate historic landmarks. However, by requiring that historic landmarks be subject to both Historic Review and Downtown Design Review, a tension is created between preserving historical architectural features and conforming to new design standards that may be at odds with each other. The proposed change would make it clear that alterations to historic landmarks are subject only to Section 40.35.15.1 Alteration of a Landmark application. However, changes to landmarks that include floor area additions may be subject to both Historic Review and Downtown Design Review.</p>
<p>Section 40.23.10.4</p>	<p>Provide an exemption from Downtown Design review for structures with a footprint less</p>	<p>Structures under 120 square feet are exempt from Building permits but currently require Downtown Design Review.</p>

	<p>than 120 square feet and one-story in height.</p>	<p>Furthermore, most Downtown Design Review standards are intended for larger buildings, which makes it difficult or impossible for small structures to meet Downtown Design Standards. The proposed change would exempt accessory structures, non-habitable buildings, or permanent structures not considered buildings with a footprint of 120 square feet or less and no greater than one story, from Downtown Design Review. These structures are proposed to have a minimum ten (10) foot setback from property lines abutting street frontages, and five (5) foot setback from all other property lines, unless the underlying zone is less restrictive. Like other structures, they are also prohibited from being placed over easements.</p>
<p>Section 40.23.15.1.A.1.f</p>	<p>Clarify threshold and make consistent with other Design Review Compliance Letter (DRCL) application in Section 40.20 by adding "required" to the threshold.</p>	<p>A reduction of landscaping is permitted through a Downtown Design Review Compliance Letter application, so long as the minimum is still met. The current threshold would prohibit any removal of landscaping from a site through the Type 1 process, even if there was an excess of landscaping.</p>
<p>Section 40.23.15.1.C.4</p>	<p>Update reference to the code section in the approval criterion.</p>	<p>The approval criterion erroneously references Section 70.15.2 (does not exist), the correct section is Section 70.15.10.</p>
<p>Section 40.23.15.2</p>	<p>Add a threshold that clarifies that a Type 2 Downtown Design Review is required if a project meets a Downtown Design Review Compliance Letter</p>	<p>Currently, it's not clear in the BDC what application would be necessary. The proposed amendment is consistent with the purpose statement in</p>

	<p>(DDRCL) threshold but chooses to address up to three design guidelines instead of standards.</p>	<p>Section 40.23.05, which states, "An applicant for Downtown Design Review approval can address design review requirements through a combination of satisfying applicable Design Standards, and in instances where it elects not to utilize Design Standards, satisfy the corresponding applicable Design Guidelines." Furthermore, the threshold for a Downtown Design Review (DDR) Three, acknowledges that an application meeting a threshold for a DDRCL can be reviewed through the DDR Three application, which does not meet an applicable downtown design standard.</p>
<p>Section 40.23.15.3</p>	<p>Clarify threshold 7 allows a project that meets a DDRCL threshold to address more than three design guidelines instead of standards when reviewed under a Downtown Design Review Three application.</p>	<p>The proposed change is necessary for clarity as the current threshold language could be interpreted to mean that only one downtown design review guideline can be addressed instead of the corresponding standard.</p>
<p>Section 40.25.15.1.A.2</p>	<p>Clarify that a Director's Interpretation application is only required when a request the determination of a non-conforming status of a lot, structure, or use be put into writing.</p>	<p>As codes change, non-conformities are created. When changes are then proposed there is occasionally a request or need to establish the current status of the lot, structure, or use. Staff worked with legal counsel to determine that a Director's Interpretation application is only required when there is a request to make the determination in writing. The proposed BDC change to Section 40.25.15.1.A.2 is to add the word "written" to the threshold to clarify that the application is</p>

		only required for a written determination.
Section 40.35.10.2	Exempt painting a historic building, adding signage and public art on to a historic building from historic review. Detached structures, such as accessory structures, non-habitable buildings, or structures not considered buildings built on the same site as a historic landmark are also proposed to be exempt from Historic Review.	Signs are reviewed through a separate Sign Application, as will detached structures. Public art must be approved by the Beaverton Arts Commission. Painting, signs, and public art are already exempt from the Design Review and Downtown Design Review applications.
Section 40.35.10.4	Section 40.35.10.4 refers to 40.35.15.4, which no longer exists.	Remove sections, section no longer exists.
Section 40.35.15.1.C	Add approval criteria to Alteration of a Historic Landmark application regarding changes to onsite lighting and roof-mounted equipment.	The proposed code amendments include exempting historic landmarks from Downtown Design Review, however, some building and site modifications, such as lighting and roof-mounted equipment should still be subject to applicable standards and guidelines. The proposed amendments include adding a reference to the applicable Design Review Standards, as well as Design Review Guidelines, allowing the applicant to choose since the application for the Alteration of a Landmark is subject to a Type 3 procedure.
Section 40.40.15.1.C.7 and Section 40.40.15.2.C.7	The proposed amendment removes approval criterion 7 from the Home Occupation applications, which limits the number of deliveries.	Home deliveries are commonplace in all neighborhoods and zones. Furthermore, this approval criterion is difficult to enforce.
Sections 40.45.15.1.C.9, 40.45.15.2.C.8 and 40.45.15.3.C.8	The proposed amendments include modifying the approval criterion in the Property Line Adjustment, Replat One and Replate Two applications, "The proposal does not create a parcel which will have more than	This approval criterion has already been removed from the Preliminary Partition and Subdivision applications. Split zoned lots, if created, are typically an interim condition for larger lots intended to be

	one (1) zoning designation" to allow for parcels to have more than one zoning designation but require that each portion of the lot comply with its respective standards.	further divided with future phases of development. Additionally, the relevant standards and criteria would still be applicable to every individual zone.
Section 40.45.15.8.C.4	Add "Legal Lot Determination" to the Final Land Division application approval criterion 4.	The Legal Lot Determination application is already listed in the threshold for a Final Land Division, this change is for consistency.
Section 40.45.15.10.	Update Middle Housing Land Division approval criteria to allow for the concurrent review of Middle Housing Land Division and Single Detached Middle Design Review.	State law (SB 458) allows for the concurrent review of a MHLD and Building permits. Although SB 458 doesn't address design review, the proposed amendment to allow MHLDs to be reviewed concurrently with design review will help housing move through the development review process faster, while still meeting all applicable approval criteria, standards, guidelines and requirements.
Section 40.45.15.10.D.10	Update approval criterion to clarify that right-of-way improvements and/or dedication could be possible for the site.	Currently, the approval criterion could be interpreted to mean that right-of-way improvements/dedication would only be possible if a resulting child lot abuts a street. The proposed amendment clarifies that if additional lots are created, right-of-way dedication may be required for the site, even if the new "child lots" do not directly abut the right-of-way.
Section 40.47	Add expiration and extension of a decision section references to the Legal Lot Determination application.	Changes necessary to be consistent with state law, ORS 92.176.
Section 40.47.15.1.A.2	Amend threshold 2 of the Legal Lot Determination application to comply with ORS 92.177.	Staff worked with legal counsel to propose minor revisions to

		the threshold for clarity and consistency with state law.
<p>Section 40.58.10</p>	<p>Proposed amendments clarify the applicability of the Sidewalk Design Modification (SDM) application for sidewalks that are subject to an alternative design standard in Commercial and Multiple Use zones, as outlined in BDC Section 60.05.20.7.</p>	<p>Sidewalks in Commercial and Multiple Use zones are subject to Section 60.05.20.7 which states that sidewalks along street and primary building elevations in Commercial and Multiple Use zones shall be a minimum of ten (10) feet wide and provide an unobstructed path of at least five (5) feet wide, unless approved otherwise through an SDM application (Section 40.58). However, this conflicts with the thresholds for an SDM which refer to the standards specified in the Engineering Design Manual and are different than those identified in Section 60.05.20.7. Therefore, the proposed change clarifies that if the sidewalk design standards identified in Section 60.05.20.7 are met, then no SDM application is required. Note, the standard street drawings in the EDM, do also acknowledge that there may be "...special district design parameters..." and to contact the Planning Division for more information (EDM Minimum Collector Street Widths – Drawing 200-2, Note 5).</p>
<p>Section 40.80.15.3</p>	<p>Clarify how many temporary structures are permitted with the Temporary Use-Temporary Structure application and add a threshold for the "storage or staging of construction materials on site while development is taking place".</p>	<p>Proposed change would allow more than one Temporary Use-Temporary Structure in associated within an approved development and also require a Temporary Use permit if staging or storage of materials for construction are placed on a site where development is</p>

		taking place to ensure that the site remains safe to maneuver.
Section 40.80.15.3	<p>The proposed amendments would allow temporary structures or construction staging/storage to be located off-site.</p>	<p>Proposed change allows temporary structures, storage and staging of materials for a site under development to be placed within 1,000 feet of the site subject site. The proposed amendment is intended to acknowledge development in the denser areas (such as the Downtown Districts) where full lot development is often encouraged, leaving little or no room for the ancillary uses and structures that typically accommodate construction. A related change is proposed as a result, to remove approval criterion 7, which required that the temporary mobile structure be located within the boundaries of the subdivision where land is for sale or under development.</p>

