

Cooper Mountain Community Plan Project

Proposed Beaverton Code Amendments

- Commentary is for information only.
- Proposed new language is underlined.
- Proposed deleted language is ~~stricken~~.
- Language that has been skipped is indicated by “***”

CHAPTER 40 - APPLICATIONS

40.15 Conditional Use

Commentary: Section 40.15.15.6 - Planned Unit Development Application

The existing Planned Unit Development (PUD) application was updated to include new Cooper PUD requirements of Section 60.36 which will apply to PUD applications for sites within the Cooper Mountain Community Plan area. Properties in Cooper Mountain will not be required to apply for a PUD but may choose to apply in order to seek approval of the flexibility or alternatives offered for certain development by Section 60.36. This section also clarifies existing processes for phased PUD projects.

6. Planned Unit Development. [ORD 4332; April 2007]

- A. Threshold. A Planned Unit Development is an application process which: [ORD 4578; March 2012]
1. May be chosen by the applicant when one or more of the following thresholds apply: [ORD 4578; March 2012]
 - a. The Planned Unit Development (PUD) may be applied to Commercial, Industrial, Multiple Use, and Residential properties outside of the Cooper Mountain Community Plan area that are that have a total gross site area of 2 acres or greater in size within any City zoning district. [ORD 4584; June 2012]
 - b. The PUD may be applied to one or more properties of any size within the Cooper Mountain Community Plan area.
 - c. When a land division of 2 acres or greater in size within any City zoning district requires collectively more than 3 of the following land use applications or combination thereof: [ORD 4584; June 2012]
 - (1) Minor Adjustment;
 - (2) Major Adjustment;
 - (3) ~~Flexible Zero Yard Setbacks~~; or
 - (4) Variance.

[ORD 4578; March 2012]

2. [ORD 4578; March 2012] Is required prior to, or concurrent with, other development applications when development is proposed on land within the SC-S (Station Community - Sunset) zoning district. Sign applications excepted. [ORD 4597; February 2013]
3. Is required for developments located within the TC-MU or TC-HDR zone AND: is a phased development project, or is development of a site that is greater than 5 acres. [ORD 4697; December 2016]
4. Is required when development within the South Cooper Mountain Community Plan Area does not comply with the applicable standards in Sections [60.05.20.1.A](#), [60.05.20.3.A](#), [60.05.25.15](#), [60.05.60.2.S5](#), [60.05.60.3.S6](#), [60.05.60.4.S20](#) and [60.55.25.2](#) and no corresponding guidelines exists.

[ORD 4822; June 2022]

- B. Procedure Type. The Type 3 procedure, as described in Section [50.45](#). of this Code, shall apply to an application for PUD approval. The decision making authority is the Planning Commission.
- C. Approval Criteria. In order to approve a PUD application, the Planning Commission shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
 1. The proposal satisfies the threshold requirements for a PUD application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposal is consistent with all applicable provisions of Section 60.35, except for proposals within the Cooper Mountain Community Plan area which shall be consistent with the applicable provisions of Section 60.36.
 4. The proposal meets the Site Development Requirement for setbacks within the applicable zoning district for the perimeter of the parent parcel unless otherwise provided by Section [60.35.10.03](#) or Section 60.36.15.
 5. The proposal complies with the applicable policies of the Comprehensive Plan.
 6. The size, dimensions, configuration, and topography of the site and natural and man-made features on the site can reasonably accommodate the proposal.
 7. The location, size, and functional characteristics of the proposal are such that it can be made reasonably compatible with and have a minimal impact on livability and appropriate development of properties in the surrounding area of the subject site.
 8. The width of proposed lots or staggering of building setbacks within detached residential developments vary so as to break up the monotony of long blocks and provide for a variety of home shapes and sizes, while giving the perception of open spaces between homes.
 9. The lessening of the Site Development Requirements results in significant benefits to the enhancement of the site, building, ~~and-or~~ structural design, or in significant public benefits related to the preservation of natural features, enhanced integration with ~~and~~ the surrounding neighborhood, increased housing options, or other benefits that warrant the requested flexibility as outlined in Section 60.305.15.
 10. The proposal provides improved open space that is accessible and usable by persons living nearby. Open space meets the following criteria unless otherwise determined by the Planning Commission through Section [60.35.15](#). or Section 60.36.25, as applicable:
 - a. The dedicated land forms a single parcel of land except where the Planning Commission determines two (2) parcels or more would be in the public interest and complement the overall site design.

- b. The shape of the open space is such that the length is not more than ~~three (3)~~ times the width and the purpose of which is to provide usable space for a variety of activities except where the Planning Commission determines a greater proportioned length would be in the public interest and complement the overall site design.
- c. The dedicated land(s) is located to reasonably serve all lots ~~for of~~ the development, for which the dedication is required.

- 11. ~~[ORD 4578; March 2012]~~ For proposals within the SC-S (Station Community - Sunset) zoning district, the requirements identified in Sections 20.20.40.2. and 20.20.40.3. are satisfied. [ORD 4578; March 2012]
- 12. If the application proposes to develop the PUD over multiple phases, the decision making authority may approve a time schedule of not more than five (5) years for the multiple development phases. If a phased PUD has been approved, development applications for the future phases of the PUD shall be filed within ~~five (5)~~ years unless the PUD has received an extension approval pursuant to Section 50.93. of the Development Code. [ORD 4654; March 2015]
- 13. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

D. Submission Requirements. An application for a PUD shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The PUD application shall be accompanied by the information required by the application form, and by Section 50.25. (Application Completeness), and any other information identified through a Pre-Application Conference.

~~E.~~ Conditions of Approval. The decision making authority may impose conditions on the approval of a PUD application to ensure compliance with the approval criteria.

~~F.~~ Phasing. ~~A PUD may be developed in a single phase or in multiple phases with approval of the Planning Commission. If the application proposes to develop the PUD in a single phase, the decision shall expire two (2) years after the date of decision. Refer to Section 50.90.~~

~~Phasing of the development may be permitted with approval of the Planning Commission. A deed restriction for those areas of the parent parcel in which deferred development will occur shall limit the number of future units developed to an amount consistent with the minimum and maximum density or Floor Area Ratio (FAR) permitted for the overall development. [ORD 4584; June 2012]~~

G. Appeal of a Decision. Refer to Section 50.70.

H. Expiration of a Decision. The PUD decision shall expire ~~five (5)~~ years after the date of decision. Refer to Section 50.90.

I. Extension of a Decision. Refer to Section 50.93.

7. **Modification of a Nonconforming Use. [ORD 4696; December 2016]**

A. Threshold. An application for a Modification of a Nonconforming Use shall be required when one or more of the following thresholds apply:

- 1. The proposal includes the modification, movement, or reconstruction of a nonconforming use or nonconforming structure which was adversely impacted or made nonconforming by a governmental agency action.

B. Procedure Type. The Type 2 procedure, as described in Section 50.40. of this Code, shall apply to an application for Modification of a Nonconforming Use. The decision making authority is the Director.

C. Approval Criteria. In order to approve a Modification of a Nonconforming Use application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

1. The proposal satisfies the threshold requirements for a Modification of a Nonconforming Use application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The structure or use proposed to be modified, moved, or reconstructed is a lawful nonconforming structure or use of land that was made nonconforming by a governmental agency action, as identified in Section 30.25.3 or Section 30.30.2 of the Development Code.
 4. The structure or use is adversely impacted or destroyed as a result of a governmental agency action.
 5. The reconstructed or relocated use does not occupy an area greater than that occupied prior to the relocation.
 6. This Modification of a Nonconforming Use application was made prior to the adverse impact or destruction of the use or structure.
 7. The reconstructed or relocated use is on the same property or an abutting property under the same ownership.
 8. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Modification of a Nonconforming Use shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Modification of a Nonconforming Use application shall be accompanied by the information required by the application form, and by Section 50.25. (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Modification of a Nonconforming Use application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.60.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

[ORD 3236, 01/28/1982; ORD 3293, 11/25/1982; ORD 3555, 04/17/1987; ORD 3556, 04/23/1987; ORD 3739, 09/08/1990; ORD 3918, 02/01/1995; ORD 3921, 04/04/1995; ORD 4046, 06/03/1999; ORD 4071, 11/25/1999; ORD 4111, 07/14/2000; ORD 4224, 09/19/2002; ORD 4248, 05/08/2003; ORD 4265, 10/09/2003; ORD 4332, 01/01/2005; ORD 4365, 10/20/2005; ORD 4430, 04/19/2007; ORD 4473, 03/27/2008; ORD 4498, 01/15/2009; ORD 4578, 04/05/2012; ORD 4584, 06/01/2012; ORD 4597, 02/08/2013; ORD 4652, 03/06/2015; ORD 4654, 03/25/2015; ORD 4659, 07/10/2015; ORD 4696, 12/02/2016; ORD 4697, 12/02/2016; ORD 4782, 04/17/2020; ORD 4822, 06/30/2022]

Effective on: 8/18/2023

40.20 Design Review

Commentary: Section 40.20.10

The Code Maintenance Project, a bundle of text amendments that went into effect on October 3, 2024, included an amendment that modified the Design Review Two application thresholds and approval criteria to allow projects to address up to three Design Guidelines in lieu of three applicable Design Standards. Proposals that meet the Design Review Compliance Letter thresholds can also address up to three Design Guidelines and be processed as a Design Review Two application. This language was taken from the Downtown Design Review and Single-Detached and Middle Housing Design Review applications; however, the Downtown Design Review Design Standards and Guidelines in Chapter 70 and the Single-Detached and Middle Housing Design Review Standards and Guidelines in Section 60.05.60 have a one-to-one ratio so there are never more than three corresponding Design Guidelines for three Design Standards. The Design Standards and Guidelines in Sections 60.05.15 through 60.05.50 do not have a one-to-one ratio. For example, there are four corresponding Design Guidelines for Design Standard 60.05.15.1.B, which means that as currently written, addressing the Guidelines in lieu of this Standard would always require a Design Review Three application, which was not the intention of this amendment. Therefore, the thresholds and approval criteria for the Design Review Two and Design Review Three applications was modified to reflect the intention that an applicant can address the corresponding Design Guidelines, no matter how many are applicable, for up to three Design Standards through a Design Review Two application.

Section 40.20.10.5 was modified to provide the ability for projects to meet minimum floor area ratio and/or minimum required commercial standards in a phased manner inside the Cooper Mountain Community Plan area. Section 40.20.10.5.A was modified to exclude projects within Cooper Mountain, and Section 40.20.10.5.C was added for projects within Cooper Mountain. New code language was added to support projects within the Cooper Mountain Community Plan area that may use a Cooper Mountain Development Plan (CMDP), approved through a Type 3 process, to develop a site in phases.

Also, new approval criteria require new housing development to conform to a previously approved Land Division Housing Plan or an approved Land Division Housing Plan Amendment. A Land Division Housing Plan will be required as a part of a Land Division application for the creation of lots to develop single-detached dwellings or middle housing when the project does not include a concurrent Design Review application. The Land Division Housing Plan will demonstrate that the future development of housing on the proposed lots will meet applicable Chapter 20 requirements such as minimum density, lot size, and, in Cooper Mountain's CM-RM zoning district, the housing variety and integration requirements. See Section 40.45 for more details about the Land Division Housing Plan and Land Division Housing Plan Amendment application.

40.20.10. Applicability.

1. The scope of Design Review shall be limited to the exterior of buildings, structures, and other development and to the site on which the buildings, structures, and other development are located. [ORD 4584; June 2012]
2. Considering the thresholds for the Design Review Compliance Letter, Design Review Two, or Design Review Three applications and unless exempted by Section 40.20.10.3. (Design Review) approval shall be required for the following: [ORD 4584; June 2012]

- A. All uses listed as Conditional Uses in the RMB and RMC zoning districts. [ORD 4584; June 2012] [ORD 4822; June 2022]
 - B. All uses listed as Permitted and Conditional Uses in the RMA, ~~and~~ MR, and CM-MR Residential zoning districts, except those that are exempt, per Section 40.20.10.3, and except those subject to Single-Detached and Middle Housing Design Review in the RMA district, per Section 40.21.10. [ORD 4584; June 2012] [ORD 4822; June 2022]
 - C. All non-residential uses listed as Permitted, all Conditional Uses, and Compact Detached Housing in the CM-MR and CM-RM zoning districts, except those that are exempt per Section 40.20.10.3, and except those subject to Single-Detached and Middle Housing Design Review per Section 40.21.10.
 - D. All uses listed as Permitted and Conditional Uses in all Commercial, Industrial, and Multiple-Use zoning districts, except Downtown Zoning Districts, which are subject to the provisions of Section 40.23.
 - E. Site grading.
 - F. Domestic Violence Shelters and Mass Shelters in any zoning district. [ORD 4838; March 2023]
3. Design Review approval shall not be required for the following:
- A. Single-detached dwellings and middle housing in the RMA, RMB, and RMC zoning districts, which are subject to Single-Detached and Middle Housing Design Review, per Section 40.21.10. Also, other uses listed as Permitted Uses in the RMC and RMB zoning districts, with the exception of Domestic Violence Shelters and Mass Shelters per Section 40.20.10.2.~~EF~~. [ORD 4584; June 2012] [ORD 4822; June 2022] [ORD 4838; March 2023]
 - B. Single-detached dwellings and middle housing, small-scale commercial uses described in Section 20.22.35, and multi-dwelling structures with five or six units on one lot in the CM-RM zoning district.
 - C. Residential accessory structures for Permitted uses in the RMA, RMB, ~~and~~ RMC, and CM-RM zones as well as single-detached dwellings Permitted in any Multiple Use, Residential or Commercial zoning district which meet applicable provisions of Section 60.50.05 Residential Accessory Structures. [ORD 4542; June 2010] [ORD 4822; June 2022]
 - D. Existing single-detached dwellings in the MR and CM-MR zoning districts and in Commercial, Industrial, and Multiple-Use zoning districts. [ORD 4782; April 2020] [ORD 4822; June 2022]
 - E. Maintenance of a building, structure, or site in a manner that is consistent with previous approvals.
 - F. Painting of any building in any zoning district.
 - G. Wireless communication facilities.
 - H. Food Cart Pods and their amenities, as described in Section 60.11. [ORD 4662; September 2015]
 - I. Uses, activities, and structures located on a private parking lot and approved pursuant to the Open Air Beaverton program. [ORD 4819; January 2022]
 - J. Emergency Shelters. [ORD 4838; March 2023]
 - K. Demolition or other reduction in square footage of an existing building.
 - L. 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 for ~~p~~Permitted uses in ~~e~~Commercial, ~~i~~Industrial, and ~~m~~Multiple ~~u~~Use zones and for Conditional Uses in any zone. They shall not be placed closer than ten (10) feet to any property line abutting a street. For all other sides, the structure may be as close as five (5) feet to the property line unless the underlying zone allows for less restrictive setback standards, the accessory structure, non-habitable building, or structure may apply the underlying zone's setback standards. Regardless of the setback, no accessory structure, non-habitable building, or structure shall be placed or constructed over an easement.

- M. All uses listed as Permitted and Conditional Uses in the Downtown Design Districts RC-BC, RC-OT, RC-MU, and RC-DR, per section 40.23.10.3.
4. Design review approval through one of the procedures noted in Section 40.20.15. will be required for all new development where applicable. The applicable design standards or guidelines will serve as approval criteria depending on the procedure. Existing developments, and proposed additions, and redevelopments associated with them, will be treated according to the following principles:
- A. Development constructed or approved prior to December 15, 2004, is not subject to Design Review standards and guidelines, and is considered fully conforming to the approvals issued at the time the development was approved by the City. Existing developments constructed prior to December 15, 2004, are not considered nonconforming if they do not meet design standards. If existing development is structurally damaged or destroyed by casualty, replacement shall occur as follows:
1. If structural damage or destruction is less than or equal to fifty percent (50%) of the existing gross floor area of the existing development, the area of damage or destruction can be replaced as legally existed on the site before the casualty loss.
 2. If structural damage or destruction is more than fifty percent (50%) of the existing gross floor area of the existing development, the area of damage or destruction must meet the provisions of this Code in every regard unless otherwise authorized by the provisions of this Code.
- [ORD 4531; April 2010]
- B. Proposed new free-standing building(s) within an existing development will be subject to all applicable design standards or guidelines.
- C. Proposed redevelopment of existing structures and project site area is subject to all applicable design standards or guidelines to the extent where redevelopment of existing building or site area is proposed. Only that portion of existing building or site area that is proposed for redevelopment is subject to design review standards or guidelines as determined applicable. [ORD 4531; April 2010]
5. Design Review approval is required for all applicable new and existing developments. The City recognizes, however, that meeting minimum Floor Area Ratio (FAR) in an early phase of a multi-phased development on a large site may be difficult. The City also recognizes that creating high quality pedestrian environments along public streets is a priority. In recognition of these and other issues, the following options are available.
- A. Projects outside the Cooper Mountain Community Plan area may use a Design Review Build-out Concept Plan (DRBCP), approved through a Type 3 process, to develop a site by demonstrating conceptually full compliance at build-out with the design review standards and/or guidelines established in Section 60.05. Such projects shall demonstrate in a DRBCP how future development of the site, to the minimum applicable floor area ratio (FAR), while meeting the development standards contained in CHAPTER 20 of the Beaverton Development Code and to the minimum applicable design standards contained in Section 60.05 or greater, can be achieved at ultimate build out of the DRBCP. A DRBCP shall:
1. Include a plan and narrative intended to address feasibility of constructing future phases, consistent with applicable development standards of the Development Code within the total site area where the project is proposed, and may include abutting properties if under same ownership.
 2. Not rely on the removal of a structure proposed in an early phase in order to demonstrate compliance in later phases.
 3. Compliance with any applicable Design Standards and/or Guidelines shall not be deferred to future phases of a DRBCP.

[ORD 4531; April 2010] [ORD 4706; May 2017]

- B. When a development site abuts two (2) or more Arterial Streets that are also designated Major Pedestrian Routes, application of the applicable design standards may be moved from along the Arterial Streets. This alternative is to provide parking lot drive aisles developed as internal private streets, and to locate buildings along the internal private streets, subject to the following:
1. The internal private streets shall extend from the Arterial Street to another public street, or back to an Arterial Street in such a way that street continuity is maintained along the entire internal street, and with abutting properties.
 2. A public access easement shall be required along the internal private streets.
 3. Buildings shall occupy a minimum percentage of the frontage of the internal private streets that is equal to the amount of lineal building frontage that would have been required under the standards for the Major Pedestrian Routes, and a minimum of 50% of the internal private streets shall have building frontage on both sides of the street.
 4. All applicable design standards contained in Section 60.05., particularly 60.05.15.6. *Building location and orientation along streets in Commercial and Multiple Use districts zones*, 60.05.15.7 *Building scale along Major Pedestrian Routes*, 60.05.20.4 *Street frontages and parking areas*, 60.05.20.6 *Off-Street parking frontages-in Multiple Use zones*, and 60.05.20.9 *Ground floor uses in parking structures* shall be met by buildings along the internal private streets. [ORD 4584; June 2012]
- C. Projects within the Cooper Mountain Community Plan area may use a Cooper Mountain Development Plan (CMDP), approved through a Type 3 process, to develop a site in phases, where the first phase does not meet the minimum floor area ratio (FAR) requirements established in Section 20.22.15 or the CM-CS minimum commercial requirement established in Section 20.22.30. Such projects shall demonstrate through a phasing plan how future development of the site will meet the applicable FAR or commercial requirement at ultimate buildout while meeting the other applicable Site Development Standards contained in Section 20.22.15 and applicable Design Standards and/or Guidelines contained in Section 60.05. A CMDP shall:
1. Include a plan and narrative that addresses the feasibility of constructing future phases, consistent with applicable development standards and/or guidelines of the Development Code within the total site area where the project is proposed, and may include abutting properties and properties across streets if under same ownership; and
 2. Not rely on the removal of a structure proposed in an early phase to demonstrate compliance in later phases; and
 3. Not defer compliance with any applicable Design Standards and/or Guidelines to future phases of a CMDP; and
 4. Include a conceptual utility plan to demonstrate how future-phase development will be served for each phase; and
 5. Include a conceptual pedestrian and, if vehicle access or parking is provided on-site, a vehicle circulation plan to demonstrate site connectivity for each phase; and
 6. For minimum FAR, demonstrate that the first phase of development provides at least 75 percent of the minimum FAR as defined in Section 20.22.15; and
 7. For minimum commercial requirements:
 - a. Provide a phasing plan that demonstrates how the future development of the site will meet the minimum leasable commercial space standards in Section 20.22.30 without relying on commercial square footage constructed on other sites; and

- b. Record a deed restriction on the property to require commercial development on land where the phasing plan shows future commercial will be developed at a later date to meet the standards in Section 20.22.30.

[ORD 4224, 09/19/2002; ORD 4248, 05/08/2003; ORD 4332, 01/01/2005; ORD 4365, 10/20/2005; ORD 4531, 04/01/2010; ORD 4542, 06/17/2010; ORD 4584, 06/01/2012; ORD 4662, 09/11/2015; ORD 4706, 05/19/2017; ORD 4782, 04/17/2020; ORD 4819, 01/14/2022; ORD 4822, 06/30/2022; ORD 4838, 03/09/2023]

Effective on: 3/9/2023

40.20.15. Application.

There are three (3) Design Review applications which are as follows: Design Review Compliance Letter, Design Review Two, and Design Review Three.

1. Design Review Compliance Letter.

- A. Threshold. An applicant must utilize the Design Review Compliance Letter process when the application is limited to one or more of the following categories of proposed action: [ORD 4822; June 2022]

1. Minor design changes to existing building or site including, but not limited to:
 - a. Façade changes, except changes in color.
 - b. Addition, elimination, or change in location of windows.
 - c. Addition, elimination, or change in location of person doors and loading doors.
 - d. Addition of new and change to existing awnings, canopies, and other mounted structures to an existing façade.
 - e. Modification of up to 15 percent on-site landscaping with no reduction in required landscaping.
 - f. Modification of off-street parking and maneuvering area with no increase to the paved area of the site. [ORD 4782; April 2020] [ORD 4844; August 2023]
 - g. Addition or modification of new fences, retaining walls, or both. [ORD 4531; April 2010]
 - h. Changing of existing grade.
 - i. Removal of Landscape Trees [ORD 4365; October 2005] [ORD 4659; July 2015]
 - j. Addition of no more than twenty-five (25) percent landscape features that consist only of natural materials. [ORD 4397; August 2006]
 - k. Addition or modification of on-site lighting. [ORD 4531; April 2010] [ORD 4584; June 2012]
 - l. New construction or modification of accessory structures, non-habitable buildings, or permanent structures not considered a building, in ~~e~~C~~ommercial~~, ~~i~~I~~ndustrial~~, ~~m~~M~~ultiple~~ ~~u~~U~~se~~ zones, or for approved ~~e~~C~~onditional~~ uses in any zone, which has a footprint of up to and including 1,000 square feet and is a use ~~p~~P~~ermitted~~, or for approved ~~e~~C~~onditional~~ uses, within the underlying zoning district. [ORD 4782; April 2020]
2. Proposed additions of gross floor area to buildings in residential, commercial, or multiple use zones up to and including building area equal to 25% of the gross square feet of floor area of the existing building, but not to exceed 2,500 gross square feet of floor area.
3. Proposed additions to buildings in industrial zones up to and including building area equal to 15% of the gross square feet of floor area of the existing building, but less than 30,000 gross square feet of floor area.
- ~~4.~~ ~~[ORD 4531; April 2010] [ORD 4584; June 2012]~~
- ~~5-4.~~ Construction of new Community Gardens or additions to existing Community Gardens.

- B. Procedure Type. The Type 1 procedure, as described in Section 50.35. of this Code, shall apply to an application for Design Compliance Letter. The decision making authority is the Director.
- C. Approval Criteria. [ORD 4365; October 2005] In order to approve a Design Review Compliance Letter application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Design Compliance Review Letter.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code.
 4. The proposal meets all applicable Site Development Requirements of Sections 20.05.15., 20.10.15., 20.15.15., ~~and 20.20.15., and 20.22.15.~~ of the Development Code unless the applicable provisions are subject to an Adjustment, Planned Unit Development, or Variance application which shall be already approved or considered concurrently with the subject proposal. [ORD 4584; June 2012]
 5. The proposal, which is not an addition to an existing building, is consistent with all applicable provisions of Sections 60.05.15 through 60.05.30 (Design Standards).
 - ~~6. If applicable, the proposed addition to an existing building and/or site, and only that portion of the building and/or site containing the proposed improvements, complies with the applicable provisions of Sections 60.05.15 through 60.05.30 (Design Standards) as they apply to the following:

 - ~~a. Building articulation and variety (Section 60.05.15.1.).~~
 - ~~b. Roof forms (Section 60.05.15.2.).~~
 - ~~c. Exterior building materials (Section 60.05.15.4.).~~
 - ~~d. Foundation landscaping requirements (Section 60.05.25.4.D.).~~
 - ~~e. Screening roof mounted equipment requirements (Section 60.05.15.5.).~~
 - ~~f. Screening loading areas, solid waste facilities and similar improvements (Section 60.05.20.2.).~~
 - ~~g. Lighting requirements (Section 60.05.30.).~~
 - ~~h. Changes to the existing on-site vehicular parking, maneuvering, and circulation area does not require additional paving to the site. [ORD 4782; April 2020] [ORD 4844; August 2023]~~
 - ~~i. Pedestrian circulation.~~

~~[ORD 4578; March 2012]~~~~
 6. The proposal complies with all applicable provisions in CHAPTER 60 (Special Regulations).
 7. The proposal complies with the grading standards outlined in Section 60.15.10 or approved with an Adjustment or Variance. [ORD 4782; April 2020]
 8. Except for conditions requiring compliance with approved plans, the proposal does not modify any conditions of approval of a previously approved Type 2 or Type 3 application.
 9. Proposals for Community Gardens comply with Section 60.05.25.145 of CHAPTER 60. Community Gardens are exempt from Criteria 4, 5, 6, ~~and 7, and 8~~ above. [ORD 4659; July 2015] [ORD 4782; April 2020]
 10. If applicable, the proposal complies with a previously approved Land Division Housing Plan associated with an existing Land Division or Land Division Housing Plan Amendment approval.
 11. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

[ORD 4404; October 2006]

- D. Submission Requirements. An application for a Design Compliance Letter shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Design Compliance Letter application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Design Compliance Letter application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.60.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

2. **Design Review Two.**

- A. Threshold. An application for Design Review Two shall be required when an application is subject to applicable design standards and one or more of the following thresholds describe the proposal:
 1. New construction of up to and including 50,000 gross square feet of non-residential floor area where the development does not abut any Residential District. [ORD 4462; January 2008]
 2. New construction of up to and including 30,000 gross square feet of non-residential floor area where the development abuts or is located within any Residential District. [ORD 4462; January 2008]
 3. New construction of multi-dwellings in any zone where multi-dwellings are a Permitted or Conditional Use. [ORD 4822; June 2022]
 4. New construction of duplexes, triplexes, quadplexes, or townhouses in the MR and CM-MR zones or in any Commercial or Multiple Use zone where such housing types are a Permitted or Conditional Use. [ORD 4822; June 2022]
 5. Reconstruction of single-detached residential dwellings in Multiple Use zoning districts where reconstruction of existing single-detached dwellings is a Permitted Use. [ORD 4542; June 2010] [ORD 4822; June 2022]
 6. Building additions in Residential, Commercial, Industrial, or Multiple Use zones less than 30,000 gross square feet of floor area that do not qualify for consideration under the Thresholds for Design Review Compliance Letter. [ORD 4531; April 2010] [ORD 4659; July 2015]
 7. Any change in excess of 15 percent of the square footage of on-site landscaping or pedestrian circulation area with the exception for an increase in landscape art of up to 25 percent. [ORD 4397; August 2006]
 8. Any new or change to existing on-site vehicular parking, maneuvering, and circulation area which adds paving. [ORD 4782; April 2020]
 9. New parks in non-residential zoning districts.
 10. New construction or modification of accessory structures, non-habitable buildings or permanent structures, not considered a building in ~~e~~C~~o~~mmercial, ~~i~~n~~d~~ustrial, ~~m~~u~~l~~tiple ~~u~~se zones, or for Permitted non-residential uses and approved ~~e~~C~~o~~nditional ~~s~~Uses, which has a footprint greater than 1,000 square feet and up to 10,000 square feet in size. [ORD 4584; June 2012] [ORD 4782; April 2020]
 11. A project meeting the Design Review Compliance Letter threshold(s) which addresses the corresponding Design Guidelines for up to ~~three~~(3) applicable ~~d~~esign guidelines Standards.
- B. Procedure Type. The Type 2 procedure, as described in Section 50.40. of this Code, shall apply to an application for Design Review Two. The decision making authority is the Director.

- C. Approval Criteria. [ORD 4365; October 2005] In order to approve a Design Review Two application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Design Review Two application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1. of the Development Code.
 4. The proposal is consistent with all applicable provisions of Sections 60.05.15. through 60.05.30. (Design Standards) or the corresponding Design Guidelines (Sections 60.05.35. through 60.05.50) for no more than three applicable Design Guidelines Standards (Sections 60.05.35. through 60.05.50) and the remaining applicable Design Standards.
 5. For additions to or modifications of existing development, the proposal is consistent with all applicable provisions of Sections 60.05.15 through 60.05.30 (Design Standards) and no more than three applicable Design Guidelines (Sections 60.05.35. through 60.05.50); or can demonstrate that the proposed additions or modifications are moving towards compliance with specific Design Standards if any of the following conditions exist:
 - a. A physical obstacle such as topography or natural feature exists and prevents the full implementation of the applicable standard; or
 - b. The location of existing structural improvements prevent the full implementation of the applicable standard; or
 - c. The location of the existing structure to be modified is more than 300 feet from a public street.

If the above listed conditions are found to exist and it is not feasible to locate a proposed addition in such a way that the addition abuts a street, then all applicable design standards except the following must be met: Building location and orientation along streets in Commercial and Multiple Use zones (Section 60.05.15.6); Ground floor elevations on commercial and multiple use buildings (Section 60.05.15.8); and Off-Street parking frontages (Section 60.05.20.6).

 - ~~d. If in a Multiple Use District, building location, entrances and orientation along streets, and parking lot limitations along streets (Standards 60.05.15.6 and 60.05.20.8)~~
 - ~~e. If in a Multiple Use or Commercial District, ground floor elevation window requirements (Standard 60.05.15.8).~~
 6. For reconstruction of a destroyed existing single-detached dwelling in a Multiple Use zoning district, the reconstructed dwelling is no more than 500 square feet larger in floor area than the original dwelling. [ORD 4822; June 2022]
 7. The proposal complies with the grading standards outlined in Section 60.15.10 or approved with an Adjustment or Variance. [ORD 4782; April 2020]
 8. If applicable, the proposal complies with a previously approved Land Division Housing Plan associated with an existing Land Division or Land Division Housing Plan Amendment approval.
 9. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Design Review Two shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Design Review Two application shall be accompanied by the information required by the

application form, and by Section 50.25. (Application Completeness), and any other information identified through a Pre-Application Conference.

- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Design Review Two application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.65.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

3. **Design Review Three.**

A. Threshold. An application for Design Review Three shall be required when an application is subject to applicable design standards and/or guidelines and one or more of the following thresholds describe the proposal: [ORD 4782; April 2020]

- 1. New construction of more than 50,000 gross square feet of non-residential floor area where the development does not abut any Residential zoning district. [ORD 4397; August 2006] [ORD 4410; December 2006] [ORD 4462; January 2008] [ORD 4584; June 2012]
- 2. New construction or addition of more than 30,000 gross square feet of non-residential floor area where the development abuts or is located within any Residential zoning district. [ORD 4410; Nov. 2006] [ORD 4462; December 2007] [ORD 4584; June 2012]
- 3. Building additions in Residential, Commercial, Industrial or Multiple Use zones more than 30,000 gross square feet of floor area. [ORD 4531; April 2010]

~~4. —ORD 4531; April 2010~~

~~5.4.~~ Construction of an accessory structure, non-habitable building or permanent structure, not considered a building, in ~~e~~Commercial, ~~i~~Industrial, ~~m~~Multiple ~~u~~Use zones, or for Permitted non-residential uses and approved Conditional Uses in ~~r~~Residential zones, which exceeds 10,000 square feet in size. [ORD 4782; April 2020]

~~6.5.~~ Projects proposed utilizing the options described in Section 40.20.10.5.

~~7.6.~~ New parks in Residential zoning districts.

~~8.7.~~ A project meeting the Design Review Compliance Letter thresholds which addresses the corresponding Design Guidelines for more than ~~three (3)~~ applicable ~~d~~Design guidelines Standards.

~~9.8.~~ A project meeting the Design Review Two thresholds which addresses the corresponding Design Guidelines for more than ~~three (3)~~ applicable ~~d~~Design guidelines Standards.

B. Procedure Type. The Type 3 procedure, as described in Section 50.45. of this Code, shall apply to an application for Design Review Three. The decision making authority is the Planning Commission. [ORD 4532; April 2010]

C. Approval Criteria. [ORD 4365; October 2005] In order to approve a Design Review Three application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

- 1. The proposal satisfies the threshold requirements for a Design Review Three application.
- 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
- 3. For proposals meeting Design Review Three application thresholds numbers 1 through ~~7~~ 6, the proposal is consistent with all applicable provisions of Sections 60.05.35 through 60.05.50 (Design Guidelines).
- 4. For additions to or modifications of existing development, the proposal is consistent with all applicable provisions of Sections 60.05.35 through 60.05.50 (Design Guidelines) or can demonstrate that the

additions or modifications are moving towards compliance with specific Design Guidelines if any of the following conditions exist:

- a. A physical obstacle such as topography or natural feature exists and prevents the full implementation of the applicable guideline; or
 - b. The location of existing structural improvements prevent the full implementation of the applicable guideline; or
 - c. The location of the existing structure to be modified is more than 300 feet from a public street.
5. The proposal complies with the grading standards outlined in Section [60.15.10](#) or approved with an Adjustment or Variance. [ORD 4782; April 2020]
 6. For DRBCP proposals which involve the phasing of required floor area and CMDP proposals which involve the phasing of required floor area or the minimum commercial requirement, the proposed project shall demonstrate how future development of the site, to the minimum development standards established in the Development Code or greater, can be realistically achieved at ultimate build out of the DRBCP or CMDP. [ORD 4584; June 2012]
 7. If applicable, the proposal complies with a previously approved Land Division Housing Plan associated with an existing Land Division or Land Division Housing Plan Amendment approval.
 8. For proposals meeting Design Review Three application Threshold numbers [87](#) or [98](#), where the applicant has decided to address a combination of standards and guidelines, the proposal is consistent with all applicable provisions of Sections [60.05.15](#) through [60.05.30](#) (Design Standards) except for the Design Standard(s) where the proposal is instead subject to the applicable corresponding Design Guideline(s). [ORD 4531; April 2010]
 9. For proposals meeting Design Review Three application Threshold numbers [87](#) or [98](#), where the applicant has decided to address Design Guidelines only, the proposal is consistent with the applicable provisions of Sections [60.05.35](#) through [60.05.50](#) (Design Guidelines). [ORD 4531; April 2010]
 10. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

[ORD 4404; October 2006]

- D. Submission Requirements. An application for a Design Review Three shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Design Review Three application shall be accompanied by the information required by the application form, and by Section [50.25](#). (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Design Review Three application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section [50.70](#).
- G. Expiration of a Decision. Refer to Section [50.90](#).
- H. Extension of a Decision. Refer to Section [50.93](#).

[ORD 3325, 07/07/1983; ORD 3441, 04/02/1985; ORD 3624, 09/01/1988; ORD 3739, 09/08/1990; ORD 3921, 04/04/1995; ORD 3965, 11/07/1996; ORD 3976, 05/15/1997; ORD 4061, 10/15/1999; ORD 4071, 11/25/1999; ORD 4079, 12/09/1999; ORD 4107, 05/02/2000; ORD 4111, 07/14/2000; ORD 4112, 07/14/2000; ORD 4118, 09/14/2000; ORD 4224, 09/19/2002; ORD 4248, 05/08/2003; ORD 4265, 10/09/2003; ORD 4312, 07/22/2004; ORD 4332, 01/01/2005; ORD 4365, 10/20/2005; ORD 4397, 08/10/2006; ORD 4404, 10/19/2006; ORD 4410, 12/14/2006; ORD 4462, 01/10/2008; ORD 4498, 01/15/2009; ORD 4531, 04/01/2010; ORD 4532, 04/01/2010; ORD 4542, 06/17/2010; ORD 4584, 06/01/2012; ORD 4659, 07/10/2015; ORD 4782, 04/17/2020; ORD 4822, 06/30/2022; ORD 4844, 08/18/2023]

Effective on: 8/18/2023

Commentary: Section 40.21. Single-Detached and Middle Housing Design Review

These proposed amendments would change this section to add references to Cooper Mountain zoning districts and specific standards in Cooper Mountain zones, such as small-scale commercial uses and Multi-Dwellings with 5 or 6 units.

Also, new approval criteria require new housing development to conform to a previously approved Land Division Housing Plan or an approved Land Division Housing Plan Amendment. A Land Division Housing Plan will be required as a part of a Land Division application for the creation of lots to develop single-detached dwellings or middle housing when the project does not include a concurrent Single-Detached and Middle Housing Design Review application. The Land Division Housing Plan will demonstrate that the future development of housing on the proposed lots will meet applicable Chapter 20 requirements such as minimum density, lot size, and, in Cooper Mountain’s CM-RM zoning district, the housing variety and integration requirements. See Section 40.45 for more details about the Land Division Housing Plan and Land Division Housing Plan Amendment application.

40.21. Single-Detached and Middle Housing Design Review

[ORD 4822, 06/30/2022]

40.21.05 Purpose

[ORD 4822; June 2022]

The purpose of Single-Detached and Middle Housing Design Review is to promote neighborhoods that build community and are welcoming to everyone. Design rules are intended to provide opportunities for neighbors to socialize, encourage tree planting, promote safe and comfortable connections to sidewalks and streets and support architectural variety.

Single-Detached and Middle Housing Design Review process is divided into two major components: Design Standards and Design Guidelines. Most Design Standards have a corresponding Design Guideline. In some cases, Design Standards do not have a corresponding Design Guideline, which means the Design Standard must be met.

The Design Standards are intended to provide a clear and objective approach to designing a project. Depending on the design thresholds, designing a project to the standards would result in an administrative review process.

An applicant for Single-Detached and Middle Housing 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. In cases reviewed through a public hearing, the hearing and decision will focus on whether or not the project satisfies the requirements of the applicable Design Guidelines only.

The purpose of Single-Detached and Middle Housing Design Review as summarized in this Section is carried out by the approval criteria listed herein.

[ORD 4822, 06/30/2022]

Effective on: 6/30/2022

40.21.10. Applicability

[ORD 4822; June 2022]

1. Development of single-detached dwellings (including manufactured homes) and middle housing in the RMA, RMB, ~~and RMC~~, and CM-RM zoning districts shall be subject to Single-Detached and Middle Housing Design Review. For Design Review of attached forms of middle housing outside of the RMA, RMB, and RMC districts, refer to Section 40.20 (Design Review) or Section 40.23 (Downtown Design Review) for development in the RC-BC, RC-OT, RC-MU, and RC-DY zones.
2. The scope of Single-Detached and Middle Housing Design Review shall be limited to the exterior of buildings, structures, and other development and to the site on which the buildings, structures, and other development are located.
3. Considering the thresholds for Single-Detached and Middle Housing Design Review One, Two, or Three applications, and unless exempted by Section 40.21.10.4., approval shall be required for the following:
 - A. Development of single-detached dwellings (including manufactured homes) in the RMA, RMB, ~~and RMC~~, and CM-RM zoning districts.
 - B. Development of middle housing (duplexes; triplexes; quadplexes; townhouses; and cottage clusters, including Community Buildings) in the RMA, RMB, ~~and RMC~~, and CM-RM zoning districts.
 - C. Development of small-scale commercial uses described in Section 20.22.35 in the CM-RM zoning district.
 - D. Development of multi-dwelling structures with five or six units on one lot in the CM-RM zoning district.
4. Single-Detached and Middle Housing Design Review approval shall not be required for the following:
 - A. Creation of middle housing through the addition to, or conversion of, an existing single-detached dwelling.
 - B. Residential accessory structures, except carports for cottage clusters and detached garages, shall meet applicable standards of Section 60.50.05 Residential Accessory Structures.
 - C. Maintenance of a building, structure, or site in a manner that is consistent with previous approvals.
 - D. Painting of any building.
 - E. Demolition or other reduction in square footage of an existing building.
5. Single-Detached and Middle Housing Design Review approval through one of the procedures noted in Section 40.21.15. will be required for all new development where applicable. The applicable design standards or guidelines will serve as approval criteria depending on the procedure. Existing developments, and proposed additions, and redevelopments associated with them, will be treated according to the following principles:
 - A. Development constructed or approved prior to June 30, 2022 is not subject to Design Review standards and guidelines and is considered fully conforming to the approvals issued at the time the development was approved by the City. Existing developments constructed prior to June 30, 2022 are not considered nonconforming if they do not meet design standards. If existing development is structurally damaged or destroyed by casualty, replacement shall occur as follows:
 1. If structural damage or destruction is less than or equal to fifty percent (50%) of the existing gross floor area of the existing development, the area of damage or destruction can be replaced as legally existed on the site before the casualty loss.

2. If structural damage or destruction is more than fifty percent (50%) of the existing gross floor area of the existing development, the area of damage or destruction must meet the provisions of this Code in every regard unless otherwise authorized by the provisions of this Code.
- B. Proposed new free-standing building(s), excluding accessory structures unless otherwise indicated in Section 60.50.05, within an existing development will be subject to all applicable design standards or guidelines.
- C. Proposed redevelopment of existing structures and project site area is subject to all applicable design standards or guidelines to the extent where redevelopment of existing building or site area is proposed. Only that portion of existing building or site area that is proposed for redevelopment is subject to design review standards or guidelines as determined applicable.

[ORD 4822, 06/30/2022]

Effective on: 6/30/2022

40.21.15. Application

[ORD 4822; June 2022]

There are three (3) Single-Detached and Middle Housing Design Review applications which are as follows: Single-Detached and Middle Housing Design Review One, Single-Detached and Middle Housing Design Review Two, and Single-Detached and Middle Housing Design Review Three.

1. Single-Detached and Middle Housing Design Review One.

- A. Threshold. An application for Single-Detached and Middle Housing Design Review One shall be required when one or more of the following thresholds describe the proposal:
 1. Addition, elimination, or change in location of windows which are subject to Section 60.05.60.2, Section 60.05.60.3, ~~and~~ Section 60.05.60.4, and Section 60.05.65. Changes to windows not regulated by these sections are exempt from the Single-Detached and Middle Housing Design Review application.
 2. Addition, elimination, or change in location of doors which are subject to Section 60.05.60.2, Section 60.05.60.3, ~~and~~ Section 60.05.60.4, and 60.05.65. Changes to doors that are not regulated by these sections are exempt from the Single-Detached and Middle Housing Design Review application.
 3. Removal of Landscape Trees.
 4. New construction of single-detached dwellings or middle housing in the RMA, RMB, ~~or~~ RMC, or CM-RM zoning district.
 5. Floor area additions for single-detached dwellings or middle housing in the RMA, RMB, ~~or~~ RMC, or CM-RM zoning districts.
 6. Any modification to garages, off-street parking areas, or vehicle circulation area which increase the width of garages, outdoor on-site parking, or maneuvering areas adjacent to ~~from~~ the public or private street.
 7. Construction of a detached garage.
 8. Addition of a carport(s) to a Cottage Cluster development.
 9. New construction of or floor area additions for small-scale commercial uses described in Section 20.22.35 in the CM-RM zoning district.
 10. New construction of or floor area additions for multi-dwelling structures with five or six units on one lot in the CM-RM zoning district.
- B. Procedure Type. The Type 1 procedure, as described in Section 50.35. of this Code, shall apply to an application for Single-Detached and Middle Housing Design Review One. The decision-making authority is the Director.

- C. Approval Criteria. In order to approve a Single-Detached and Middle Housing Design Review One application, the - authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Single-Detached and Middle Housing Design Review One application.
 2. All City application fees related to the application under consideration by the decision-making authority have been submitted.
 3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1. of the Development Code.
 4. The proposal meets all applicable Site Development Requirements of Sections 20.05.15 or Section 20.22.15, as applicable, and of Section 20.25.05 of the Development Code unless the applicable provisions are subject to an Adjustment, Planned Unit Development, or Variance application which shall be already approved or considered concurrently with the subject proposal.
 5. A proposal for a small-scale commercial use in the CM-RM zoning district meets all applicable provisions of Section 20.22.35.
 6. The proposal, which is not an addition to an existing building, is consistent with all applicable Design Standards in Section 60.05.60. (Design Standards and Guidelines for Single-Detached Dwellings and Middle Housing) or in Section 60.05.65 (Design Standards and Guidelines for Five- and Six-Unit Multi-Dwelling Structures in the Cooper Mountain Residential Mixed (CM-RM) Zoning District), as applicable.
 7. If applicable, the proposed addition to an existing building and/or site, and only that portion of the building and/or site containing the proposed improvements, complies with the applicable design standards of Section 60.05.60 or 60.05.65, as applicable.
 8. The proposal complies with all other applicable provisions in CHAPTER 60 (Special Requirements).
 9. The proposal complies with the grading standards outlined in Section 60.15.10. or approved with an Adjustment or Variance.
 10. If applicable, the proposal complies with a previously approved Land Division Housing Plan associated with an existing Land Division or Land Division Housing Plan Amendment approval.
 11. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for Single-Detached and Middle Housing Design Review One shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Single-Detached and Middle Housing Design Review One application shall be accompanied by the information required by the application form, and by Section 50.25. (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Single-Detached and Middle Housing Design Review One application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.60.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.
2. **Single-Detached and Middle Housing Design Review Two.**
- A. Threshold. An application for Single-Detached and Middle Housing Design Review Two shall be required when the following threshold describes the proposal:

1. A project meeting the Single-Detached and Middle Housing Design Review One thresholds which chooses to meet one or more Type 2 Design Guidelines.
- B. Procedure Type. The Type 2 procedure, as described in Section 50.40. of this Code, shall apply to an application for Single-Detached and Middle Housing Design Review Two. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Single-Detached and Middle Housing Design Review Two application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
 1. The proposal satisfies the threshold requirements for a Single-Detached and Middle Housing Design Review Two application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1. of the Development Code.
 4. The proposal meets all applicable Site Development Requirements of Section 20.05.15. or Section 20.22.15 of the Development Code, as applicable, unless the applicable provisions are subject to an Adjustment, Planned Unit Development, or Variance application which shall be already approved or considered concurrently with the subject proposal.
 5. A proposal for a small-scale commercial use in the CM-RM zoning district meets all applicable provisions of Section 20.22.35.
 6. If the development is proposed on an existing lot that does not meet minimum density, the proposal meets the requirements of Section 20.25.05.1.D.
 7. The proposal is consistent with all applicable Design Standards or applicable Type 2 Design Guidelines in Section 60.05.60. (Design Standards and Guidelines for Single-Detached Dwellings and Middle Housing) or in Section 60.05.65 (Design Standards and Guidelines for Five- and Six-Unit Multi-Dwelling Structures in the Cooper Mountain Residential Mixed (CM-RM) Zoning District), as applicable.
 8. The proposal complies with all other applicable provisions in CHAPTER 60 (Special Requirements).
 9. The proposal complies with the grading standards outlined in Section 60.15.10 or approved with an Adjustment or Variance.
 10. The proposal complies with all applicable provisions of Section 40.03.1 (Facilities Review Committee).
 11. If applicable, the proposal complies with a previously approved Land Division Housing Plan associated with an existing Land Division or Land Division Housing Plan Amendment approval.
 12. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Single-Detached and Middle Housing Design Review Two shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Single-Detached and Middle Housing Design Review Two application shall be accompanied by the information required by the application form, and by Section 50.25. (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision-making authority may impose conditions on the approval of a Single-Detached and Middle Housing Design Review Two application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.65.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

3. **Single-Detached and Middle Housing Design Review Three.**

- A. **Threshold.** An application for Single-Detached and Middle Housing Design Review Three shall be required when the following threshold describes the proposal:
1. A project meeting the Single-Detached and Middle Housing Design Review One thresholds which chooses to meet one or more applicable Type 3 Design Guidelines.
- B. **Procedure Type.** The Type 3 procedure, as described in Section 50.45. of this Code, shall apply to an application for Single-Detached and Middle Housing Design Review Three. The decision making authority is the Planning Commission.
- C. **Approval Criteria.** In order to approve a Single-Detached and Middle Housing Design Review Three application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Single-Detached and Middle Housing Design Review Three application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1. of the Development Code.
 4. The proposal meets all applicable Site Development Requirements of Section 20.05.15. or Section 20.22.15. of the Development Code, as applicable, unless the applicable provisions are subject to an Adjustment, Planned Unit Development, or Variance application which shall be already approved or considered concurrently with the subject proposal.
 5. A proposal for a small-scale commercial use in the CM-RM zoning district meets all applicable provisions of Section 20.22.35.
 6. If the development is proposed on an existing lot that does not meet minimum density, the proposal meets the requirements of Section 20.25.05.1.D.
 7. The proposal is consistent with all applicable Type 3 Design Guidelines of Section 60.05.60. (Design Standards and Guidelines for Single-Detached Dwellings and Middle Housing) or of Section 60.05.65 (Design Standards and Guidelines for Five- and Six-Unit Multi-Dwelling Structures in the Cooper Mountain Residential Mixed (CM-RM) Zoning District), as applicable, except where the applicant elects to respond to the applicable corresponding Design Standard(s) or applicable Type 2 guideline(s).
 8. The proposal complies with all applicable provisions in CHAPTER 60 (Special Requirements).
 9. The proposal complies with the grading standards outlined in Section 60.15.10 or approved with an Adjustment or Variance.
 10. The proposal complies with all applicable provisions of Section 40.03.1 (Facilities Review Committee).
 11. If applicable, the proposal complies with a previously approved Land Division Housing Plan associated with an existing Land Division or Land Division Housing Plan Amendment approval.
 12. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. **Submission Requirements.** An application for a Single-Detached and Middle Housing Design Review Three shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Single-Detached and Middle Housing Design Review Three application shall be accompanied by the information required by the application form, and by Section 50.25. (Application Completeness), and any other information identified through a Pre-Application Conference.

- E. Conditions of Approval. The decision-making authority may impose conditions on the approval of a Single-Detached and Middle Housing Design Review Three application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.70.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

[ORD 4822, 06/30/2022]

Effective on: 6/30/2022

Commentary: Section 40.23. Downtown Design Review

These proposed amendments would add approval criteria that require new housing development to conform to a previously approved Land Division Housing Plan or an approved Land Division Housing Plan Amendment. A Land Division Housing Plan will be required as a part of a Land Division application for the creation of lots to develop middle housing when the project does not include a concurrent Downtown Design Review application. The Land Division Housing Plan will demonstrate that the future development of housing on the proposed lots will meet applicable Chapter 70 requirements such as minimum density and lot size. See Section 40.45 for more details about the Land Division Housing Plan and Land Division Housing Plan Amendment application.

40.23. Downtown Design Review

[ORD 4799, 01/08/2021]

40.23.05. Purpose.

[ORD 4799; January 2021]

The purpose of Downtown Design Review is to promote Beaverton’s commitment to the community’s appearance, quality pedestrian environment, and aesthetic quality. It is intended that monotonous, drab, unsightly, dreary and inharmonious development will be discouraged. Design Review is also intended to conserve the City’s natural amenities and visual character by ensuring that proposals are properly related to their sites and to their surroundings by encouraging compatible and complementary development.

To achieve this purpose, the Downtown Design Review process is divided into two major components; Design Standards and Design Guidelines. Both standards and guidelines implement Design Principles, which are more general statements that guide development of the built environment. Most Design Standards have a corresponding Design Guideline.

The Design Standards are intended to provide a clear and objective approach to designing a project. Depending on the design thresholds, designing a project to the standards would result in an administrative review process.

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. In cases reviewed through a public hearing, the hearing and decision will focus on whether or not the project satisfies the requirements of the applicable Design Guidelines only.

The purpose of Downtown Design Review as summarized in this Section is carried out by the approval criteria listed herein.

[ORD 4799, 01/08/2021]

Effective on: 1/8/2021

40.23.10. Applicability.

[ORD 4799; January 2021]

1. Sites within the Downtown Design District shall be subject to Downtown Design Review. For sites outside of the Downtown Design District, refer to Section 40.20 (Design Review)
2. The scope of Downtown Design Review shall be limited to the exterior of buildings, structures, and other development and to the site on which the buildings, structures, and other development are located.
3. Considering the thresholds for the Downtown Design Review Compliance Letter, Downtown Design Review Two, or Downtown Design Review Three applications, and unless exempted by Section 40.23.10.4. (Downtown Design Review), approval shall be required for the following:
 - A. All uses listed as Permitted and Conditional Uses in the RC-BC, RC-OT, RCMU, and RC-DT zoning districts.
 - B. Site grading.
4. Downtown Design Review approval shall not be required for the following:
 - A. Maintenance of a building, structure, or site in a manner that is consistent with previous approvals.
 - B. Painting of any building in any zoning district.
 - C. Wireless communication facilities.
 - D. Food Cart Pods and their amenities, as described in Section 60.11.
 - E. Uses, activities, and structures located on a private parking lot and approved pursuant to the Open Air Beaverton program. [ORD 4819; January 2022]
 - F. Residential accessory structures in any Downtown zoning district which meet applicable provisions of Section 60.50.05 Residential Accessory Structures.
 - G. Existing single-detached dwellings.
 - H. Demolition or other reduction in square footage of an existing building.
 - I. Alteration of a Landmark, Emergency Demolition of a Landmark and Demolition of a Landmark, subject to
 - J. Historic Review (Section 40.35), other than:
 1. Floor area additions (attached or detached).
 2. On-site modifications to vehicular or pedestrian circulations areas or landscaping.
 - K. 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 for ~~p~~Permitted uses and ~~e~~Conditional uses in any zone. They shall not be placed closer than ten (10) feet to any property line abutting a street. For all other sides, the structure may be as close as five (5) feet to the property line unless the underlying zone allows for less restrictive setback standards, the accessory structure, non-habitable building, or structure may apply the underlying zone's setback standards. Regardless of the setback, no accessory structure, non habitable building, or structure shall be placed or constructed over an easement.
5. Downtown Design Review approval through one of the procedures noted in Section 40.23.15. will be required for all new development where applicable. The applicable design standards or guidelines will serve as approval criteria depending on the procedure. Existing developments, and proposed additions, and redevelopments associated with them, will be treated according to the following principles:
 - A. Development constructed or approved prior to December 15, 2004, is not subject to Design Review standards and guidelines and is considered fully conforming to the approvals issued at the time the development was approved by the City. Existing developments constructed prior to December 15, 2004, are not considered nonconforming if they do not meet design standards. If existing development is structurally damaged or destroyed by casualty, replacement shall occur as follows:
 1. If structural damage or destruction is less than or equal to fifty percent (50%) of the existing gross floor area of the existing development, the area of damage or destruction can be replaced as legally existed on the site before the casualty loss.

2. If structural damage or destruction is more than fifty percent (50%) of the existing gross floor area of the existing development, the area of damage or destruction must meet the provisions of this Code in every regard unless otherwise authorized by the provisions of this Code.
 - B. Proposed new free-standing building(s) within an existing development will be subject to all applicable design standards or guidelines.
 - C. Proposed redevelopment of existing structures and project site area is subject to all applicable design standards or guidelines to the extent where redevelopment of existing building or site area is proposed. Only that portion of existing building or site area that is proposed for redevelopment is subject to design review standards or guidelines as determined applicable.
6. Downtown Design Review approval is required for all applicable new and existing developments within the Downtown Design District. The City recognizes, however, that meeting minimum Floor Area Ratio (FAR) in an early phase of a multi-phased development on a large site may be difficult. In recognition of this potential challenge, the Applicant may submit a Phased Downtown Development Plan (PDDP) concurrent with a Downtown Design Review application.

Projects may use a PDDP, approved through a Type 3 process, to develop a site in phases, where the first phase does not meet the minimum FAR standards established in Section 70.15. Such projects shall demonstrate through a phasing plan how future development of the site will meet the minimum applicable floor area ratio (FAR) at ultimate buildout, while meeting the other applicable Development Standards contained in Section 70.15, and the applicable Design Standards and/or Guidelines contained in Section 70.20 at each phase of development. A PDDP shall:

- A. Include a plan and narrative that addresses feasibility of constructing future phases, consistent with applicable development standards of the Development Code within the total site area where the project is proposed, and may include abutting properties if under same ownership; and
 - B. Be 1.5 acres or greater in size, including abutting properties if under the same ownership; and
 - C. For sites within in the RC-BC zone:
 1. If the site is greater than 1.5 acres, but less 2 acres, demonstrate that the first phase of development provides at least 75% of the minimum FAR as defined in Section 70.15;
 2. If the site is 2 acres or greater, demonstrate that the first phase of development provides at least 66% of the minimum FAR as defined in Section 70.15.; and
 - D. For sites within in the RC-MU and RC-DT zones:
 1. If the site is greater than 1.5 acres, but less 2 acres, demonstrate that the first phase of development provides at least 85% of the minimum FAR as defined in Section 70.15;
 2. If the site is 2 acres or greater, demonstrate that the first phase of development provides at least 75% of the minimum FAR as defined in Section 70.15.; and
 - E. Demonstrate that the first phase of development provides at least 66% of the minimum FAR as defined in Section 70.15.; and
 - F. Include a conceptual utility plan to demonstrate how future-phase development will be served for each phase; and
 - G. Include a conceptual pedestrian and, if vehicle access or parking is provided on-site, a vehicle circulation plan to demonstrate site connectivity for each phase; and [ORD 4844; August 2023]
 - H. Not rely on the removal of a structure in an early phase in order to demonstrate compliance in later phases; and
 - I. Comply with all applicable Design Standards and/or Guidelines. Compliance shall not be deferred to future phases of a PDDP.
7. Projects must demonstrate that all applicable Design Standards and/or Guidelines are met. The City, however, recognizes the possibility of a creative and high-quality project that better meets the intent of the Downtown Design District code. To provide greater flexibility that allows for exceptional design, an applicant may request to have one

or more applicable Design Guidelines waived. The applicant must demonstrate that the project better meets the Intent Statement and Design Principles of the sub-section(s) in which the Design Guideline is located in than the Design Guideline itself. Design Guidelines may only be waived through a Type 3 process.

[ORD 4799, 01/08/2021; ORD 4819, 01/14/2022; ORD 4844, 08/18/2023]

Effective on: 8/18/2023

40.23.15. Application.

[ORD 4799; January 2021]

There are three (3) Downtown Design Review applications which are as follows: Downtown Design Review Compliance Letter, Downtown Design Review Two, and Downtown Design Review Three.

1. Downtown Design Review Compliance Letter.

- A. Threshold. An applicant may utilize the Downtown Design Review Compliance Letter process when the application is limited to one or more of the following categories of proposed action:
1. Minor design changes to existing building or site including, but not limited to:
 - a. Façade changes, except changes in color.
 - b. Addition, elimination, or change in location of windows.
 - c. Addition, elimination, or change in location of person doors and loading doors.
 - d. Addition of new and change to existing awnings, canopies, and other mounted structures to an existing façade.
 - e. Modification of up to 15 percent on-site landscaping with no reduction in required landscaping.
 - f. Modification of off-street parking with no increase in paved area. [ORD 4844; August 2023]
 - g. Addition or modification of new fences, retaining walls, or both.
 - h. Changing of existing grade.
 - i. Removal of Landscape Trees.
 - j. Addition of no more than twenty-five (25) percent landscape features that consist only of natural materials.
 - k. Addition or modification of on-site lighting.
 2. Proposed additions of gross floor area to buildings up to and including building area equal to 25% of the gross square feet of floor area of the existing building, but not to exceed 2,500 gross square feet of floor area.
 3. New construction of accessory structures, non-habitable buildings, or structures not considered buildings, up to and including a gross building area of 1,000 square feet.
 4. Construction of new Community Gardens or additions to existing Community Gardens.
- B. Procedure Type. The Type 1 procedure, as described in Section 50.35. of this Code, shall apply to an application for Design Compliance Letter. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Downtown Design Review Compliance Letter application, the decision-making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Downtown Design Compliance Review Letter.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1. of the Development Code.

4. The proposal meets all applicable Development Standards of Sections 70.15.10 of the Development Code unless the applicable provisions are subject to an Adjustment, Planned Unit Development, or Variance application which shall be already approved or considered concurrently with the subject proposal.
 5. The proposal is consistent with all applicable Design Standards of 70.20 (Downtown Design Standards and Guidelines).
 6. The proposal complies with all applicable provisions in CHAPTER 60 (Special Requirements).
 7. Except for conditions requiring compliance with approved plans, the proposal does not modify any conditions of approval of a previously approved Type 2 or Type 3 application.
 8. If applicable, the proposal complies with a previously approved Land Division Housing Plan associated with an existing Land Division or Land Division Housing Plan Amendment approval.
 9. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Downtown Design Compliance Letter shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Downtown Design Compliance Letter application shall be accompanied by the information required by the application form, and by Section 50.25. (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Downtown Design Compliance Letter application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.60.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.
- 2. Downtown Design Review Two.**
- A. Threshold. An application for Downtown Design Review Two shall be required when an application is subject to applicable design standards and one or more of the following thresholds describe the proposal:
1. New construction of up to and including 50,000 gross square feet of non-residential floor area where the development does not abut any Residential District.
 2. New construction of up to and including 30,000 gross square feet of non-residential floor area where the development abuts any Residential District.
 3. New construction of detached or attached residential dwellings.
 4. Building additions less than 30,000 gross square feet of floor area that do not qualify for consideration under the Thresholds for Design Review Compliance Letter.
 5. Any change in excess of 15 percent of the square footage of on-site landscaping or pedestrian circulation area.
 6. Any new or change to existing on-site vehicular parking, maneuvering, and circulation area which adds paving or parking spaces.
 7. New construction of a park.
 8. New construction of non-habitable buildings, accessory structures, or structures not considered buildings, larger than 1,000 square feet in gross building area.
 9. A project meeting the Downtown Design Review Compliance Letter threshold(s) which does not meet up to three applicable design standard(s).
- B. Procedure Type. The Type 2 procedure, as described in Section 50.40. of this Code, shall apply to an application for Downtown Design Review Two. The decision making authority is the Director.
- C. Approval Criteria. [ORD 4365; October 2005] In order to approve a Design Review Two application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Downtown Design Review Two application.

2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1. of the Development Code.
 4. The proposal is consistent with all applicable Design Standards in Section 70.20, or no more than three applicable Design Guidelines and the remaining applicable Design Standards.
 5. If applicable, the proposal complies with a previously approved Land Division Housing Plan associated with an existing Land Division or Land Division Housing Plan Amendment approval.
 6. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Downtown Design Review Two shall be made by the owner of the subject property, or the owner’s authorized agent, on a form provided by the Director and shall be filed with the Director. The Downtown Design Review Two application shall be accompanied by the information required by the application form, and by Section 50.25. (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision-making authority may impose conditions on the approval of a Downtown Design Review Two application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.65.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.
- 3. Downtown Design Review Three.**
- A. Threshold. An application for Downtown Design Review Three shall be required when an application is subject to applicable design guidelines and one or more of the following thresholds describe the proposal:
1. New construction of more than 50,000 gross square feet of non-residential floor area where the development does not abut any Residential zoning district.
 2. New construction or addition of more than 30,000 gross square feet of non-residential floor area where the development abuts any Residential zoning district.
 3. Building additions more than 30,000 gross square feet of floor area.
 4. Projects proposing a Phased Downtown Development Plan (PDDP) as described in Section 40.23.10.6.
 5. Projects requesting to waive one more Design Guidelines, as described in Section 40.23.10.7.
 6. The project proposes to exceed the maximum height of the zone utilizing Design Guidelines in Section 70.20.10.1.
 7. A project meeting the Downtown Design Review Compliance Letter thresholds which does not meet more than three applicable design standard(s).
 8. A project meeting the Downtown Design Review Two thresholds which does not meet more than three applicable design standards.
- B. Procedure Type. The Type 3 procedure, as described in Section 50.45. of this Code, shall apply to an application for Downtown Design Review Three. The decision making authority is the Planning Commission.
- C. Approval Criteria. [ORD 4365; October 2005] In order to approve a Downtown Design Review Three application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Design Review Three application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposal is consistent with all applicable Design Guidelines of Section 70.20 except where the applicant elects to respond to the applicable corresponding Design Standard(s). Where no Design Guideline is offered, the proposal is consistent with the Design Standard.

4. For PDDP proposals, the proposed project shall demonstrate how minimum floor area will be met at ultimate buildout and applicable Development Standards in Section 70.15 and applicable design regulations in Section 70.20 can be realistically achieved at each phase of buildout.
 5. For proposals requesting Design Guidelines to be waived, the project shall demonstrate that the development better meets the applicable Downtown Design District Design Principles and Intent Statement(s) preceding the Design Guideline(s) than the Design Guideline requested to be waived.
 6. If applicable, the proposal complies with a previously approved Land Division Housing Plan associated with an existing Land Division or Land Division Housing Plan Amendment approval.
 7. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Downtown Design Review Three shall be made by the owner of the subject property, or the owner’s authorized agent, on a form provided by the Director and shall be filed with the Director. The Downtown Design Review Three application shall be accompanied by the information required by the application form, and by Section 50.25. (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision-making authority may impose conditions on the approval of a Downtown Design Review Three application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.70.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

[ORD 4799, 01/08/2021; ORD 4844, 08/18/2023]

Effective on: 8/18/2023

Commentary: Section 40.40 Home Occupation

This Home Occupation application was modified to describe limitations specific to small-scale commercial uses in CM-RM. These are needed for clarity because both small-scale commercial uses and home occupations are allowed.

40.40. Home Occupation

[ORD 3255, 06/17/1982; ORD 3457, 09/05/1985; ORD 3494, 03/27/1986; ORD 3613, 07/01/1988; ORD 3992, 10/09/1997; ORD 4224, 09/19/2002]

40.40.05. Purpose.

The purpose of the Home Occupation application is to provide recognition of the needs or desires of people to engage in small scale business ventures at home. It recognizes the potential advantages for reducing commuter travel when people work at home. It is also recognized that such uses, if not carefully regulated, may be incompatible with the purposes of Residential districts. It is the intent of this section that these uses be allowed so long as they are not in violation of the terms of this section and do not alter the residential character of the neighborhood, infringe upon the right of neighboring residents to the peaceful enjoyment of their neighborhood homes, or otherwise be detrimental to the community at large. This Section is carried out by the approval criteria listed herein. [ORD 4397; August 2006]

[ORD 4224, 09/19/2002; ORD 4397, 08/10/2006]

Effective on: 6/1/2012

40.40.10. Applicability.

The provisions of this section apply to all home occupations as defined in [CHAPTER 90](#) of this Code, except for the following situations:

1. Garage, Yard, or Estate sales from the site that occur for no more than three (3) consecutive days on not more than two (2) occasions during a calendar year.
2. Production of produce or other vegetative agricultural products grown on the premises. The temporary or seasonal sale of produce or other vegetative agricultural products grown on the premises is subject to the provisions of [Section 40.80](#) (Temporary Use).
3. Prohibited home occupation uses are:
 - A. Any use not conducted within a wholly enclosed building.
 - B. Automotive services, Major.
 - C. Automotive services, Minor.
 - D. Junk and Salvage Operations.
 - E. Storage or sale of fireworks.
 - F. Any use that consists of the manufacturing, processing, generation, or storage of materials that constitute a fire, explosion, or health hazard as defined by the Building Code, Fire Code, or both.
4. [Limitations on home occupations in buildings or units with both residential and small-scale commercial uses in the CM-RM zoning district:](#)
 - A. [If a structure with only one residential unit contains both a residential use and a small-scale commercial use allowed by Section 20.22.35, a separate Home Occupation is not allowed.](#)
 - B. [If a structure with more than one residential unit, such as a plex with two to four units, contains a residential use and a small-scale commercial use allowed by Section 20.22.35, a separate Home Occupation is not allowed for the unit/space occupied by the small-scale commercial use. A separate residential unit in that same structure that does not contain a small-scale commercial use may apply for a Home Occupation.](#)

[ORD 3457, 09/05/1985; ORD 3494, 03/27/1986; ORD 4071, 11/25/1999; ORD 4224, 09/19/2002]

Effective on: 9/19/2002

40.40.15. Application.

There are two (2) Home Occupation applications which are as follows: Home Occupation One and Home Occupation Two.

1. **Home Occupation One.**
 - A. Threshold. An application for Home Occupation One shall be required when one or more of the following thresholds apply:
 1. A home occupation is proposed where no outside customers or employees visit the premises. [ORD 4697; December 2016]
 - B. Procedure Type. The Type 1 procedure, as described in [Section 50.35](#) of this Code, shall apply to an application for Home Occupation One. The decision making authority is the Director.
 - C. Approval Criteria. In order to approve a Home Occupation One application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

1. The proposal satisfies the threshold requirements for a Home Occupation One application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1. of the Development Code. [ORD 4265; October 2003]
 4. There are no outside volunteers or employees who do not reside on the premises. [ORD 4697; December 2016]
 5. No clients or customers of the proposed home occupation visit the premises for a reason related to the home occupation. [ORD 4697; December 2016]
 6. There will be no exterior alteration to the residence. [ORD 4697; December 2016]
 7. The home occupation is being undertaken only by an occupant of the residence.
 8. The proposed home occupation is participating in and is consistent with the City's Business License Program and other agency licenses as appropriate to the proposed use.
 9. The on-site operation of the proposed home occupation shall be conducted entirely within the dwelling, a conforming accessory structure, or both. No exterior storage of materials or equipment will occur on the premises. [ORD 4404; October 2006]
 10. The proposed home occupation will not change the use classification of the dwelling unit or accessory structure, as determined by the City Building Official applying the State Building Code.
 11. The proposed home occupation and associated storage of materials and products shall not occupy more than 700 gross square feet of floor area.
 12. The subject property will continue to be used and maintained as a residence and will conform to all requirements of this and other City Codes as they pertain to residential property.
 13. The home occupation, including deliveries from other businesses, does not include the use of tractor trailers, fork lifts, or similar heavy equipment.
 14. There will be no noise, vibration, smoke, dust, odors, heat or glare at or beyond the property line resulting from the operation of the home occupation.
 15. There will be no exterior storage of vehicles of any kind used for the business except that one (1) commercially licensed vehicle, which is not larger than a 3/4 ton pick-up, passenger van, or other vehicle of similar size, may be parked outside on the subject property provided such parking complies with all parking restrictions.
 16. The proposal will not involve storage or distribution of toxic or flammable materials, spray painting or spray finishing operations, or similar activities that involve toxic or flammable materials which in the judgment of the Fire Marshall pose a health or safety risk to the residence, its occupants or surrounding properties.
 17. There is no signage associated with the proposed home occupation aside from a name plate as allowed by Section 60.40.15. of the Development Code. [ORD 4584; June 2012]
 18. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Home Occupation One shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Home Occupation One application shall be accompanied by the information required by the application form. [ORD 4584; June 2012]

- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Home Occupation One application to ensure compliance with the approval criteria.
 - F. Appeal of a Decision. Refer to Section 50.60.
 - G. Expiration of a Decision. Refer to Section 50.90.
 - H. Extension of a Decision. Previous approval of Home Occupation One application shall not be extended.
2. **Home Occupation Two.**
- A. Threshold. An application for Home Occupation Two shall be required when one or more of the following thresholds apply:
 - 1. A home occupation is proposed where outside customers or employees visit the premises. [ORD 4697; December 2016]
 - B. Procedure Type. The Type 2 procedure, as described in Section 50.40. of this Code, shall apply to an application for Home Occupation Two. The decision making authority is the Director.
 - C. Approval Criteria. In order to approve a Home Occupation Two application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
 - 1. The proposal satisfies the threshold requirements for a Home Occupation Two application.
 - 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 - 3. The proposed home occupation shall **have** a maximum of one (1) volunteer or employee who is not a resident on the premises. [ORD 4697; December 2016] [ORD 4782; April 2020]
 - 4. The proposed home occupation shall have no more than 8 daily customers or clients on the premises. [ORD 4697; December 2016] [ORD 4782; April 2020]
 - 5. All customer and client visits to the proposed home occupation shall occur only between the hours of 7:00 a.m. and 10:00 p.m. [ORD 4697; December 2016]
 - 6. If on-site parking is provided, a plan for additional parking may be approved if:
 - a. Not more than a total of 4 on-site parking spaces for the combined residential and home occupation uses are proposed.
 - b. The parking spaces, driveway, street access, landscaping, storm water drainage, and screening comply with this Code and other city standards. [ORD 4697; December 2016]
 - 7. The proposed home occupation is being undertaken by an occupant of the residence.
 - 8. The proposed home occupation is participating in and is consistent with the City's Business License Program and other agency licenses as appropriate to the proposed use.
 - 9. The on-site operation of the proposed home occupation shall be conducted entirely within the dwelling, a conforming accessory structure, or both. No exterior storage of materials or equipment shall occur on the premises.
 - 10. The proposed home occupation and associated storage of materials and products shall not occupy more than 700 gross square feet of floor area.
 - 11. The subject property will continue to be used and maintained as a residence and the proposed home occupation will not change the use classification of the dwelling unit or accessory structures as determined by the City Building Official. The proposal will conform to all requirements of this and other City Codes as they pertain to residential property. [ORD 4782; April 2020]

12. The home occupation, including deliveries from other businesses, shall not include the use of tractor trailers, forklifts, or similar heavy equipment.
13. There shall be no noise, vibration, smoke, dust, odors, heat or glare at or beyond the property line resulting from the operation of the home occupation.
14. There shall be no exterior storage of vehicles of any kind used for the business except that one (1) commercially licensed vehicle, which is not larger than a 3/4 ton pick-up, passenger van, or other vehicle of similar size, may be parked outside on the subject property, provided such parking complies with applicable parking restrictions.
15. The proposal will not involve storage or distribution of toxic or flammable materials, spray painting or spray finishing operations, or similar activities that involve toxic or flammable materials which in the judgment of the Fire Marshall pose a health or safety risk to the residence, its occupants or surrounding properties.
16. There is no signage associated with the proposed home occupation aside from a name plate as allowed by Section 60.40.15. of the Development Code. [ORD 4584; June 2012]
17. Exterior remodeling will not alter the residential character of the building.
18. The proposal is consistent with all applicable provisions of CHAPTER 20 (Zoning Districts) unless the applicable provisions are subject to an adjustment, planned unit development, or variance which shall be already approved or considered concurrently with the subject proposal.
19. The proposal is consistent with all applicable provisions of CHAPTER 60 (Special Requirements) and that all improvements, dedications, or both required by the applicable provisions of CHAPTER 60 (Special Requirements) are provided or can be provided in rough proportion to the identified impact(s) of the proposal.
20. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1. of the Development Code.
21. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

[ORD 4404; October 2006] [ORD 4844; August 2023]

- D. Submission Requirements. An application for a Home Occupation Two shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Home Occupation Two application shall be accompanied by the information required by the application form, and by Section 50.25. (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Home Occupation Two application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.65.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Previous approval of Home Occupation Two application shall not be extended.

[ORD 3457, 09/05/1985; ORD 3494, 03/27/1986; ORD 3613, 07/01/1988; ORD 3992, 10/09/1997; ORD 4224, 09/19/2002; ORD 4265, 10/09/2003; ORD 4404, 10/19/2006; ORD 4584, 06/01/2012; ORD 4697, 12/02/2016; ORD 4782, 04/17/2020; ORD 4844, 08/18/2023]

Effective on: 8/18/2023

Commentary: Section 40.45 Land Division and Reconfiguration

New code language in Sections 40.45.4, 40.45.5 and 40.45.11 create a requirement for Land Division applications that would create lots for development of single-detached dwellings or middle housing to submit a Land Division Housing Plan when the project does not include a concurrent Design Review application (Sections 40.20, 40.21, and 40.23). The Land Division Housing Plan will demonstrate that the proposed Land Division will be developed with housing in a way that complies with all applicable Chapter 20 or Chapter 70 requirements. If a developer wishes to change the housing plan for the subdivision prior to or concurrent with the submittal of the required Design Review application, a new Type 1 application process, called the Land Division Housing Plan Amendment, has been created for that purpose.

In addition, the proposed changes to the Land Division and Reconfiguration section would provide some miscellaneous updates and corrections, clarify the approval criterion related to oversized parcels in RMA, RMB, RMC, and CM-RM, and add references to Cooper Mountain zones.

40.45. Land Division and Reconfiguration

[ORD 4487; August 2008]

[ORD 3226, 11/04/1981; ORD 4224, 09/19/2002; ORD 4487, 08/21/2008]

40.45.05. Purpose.

The purpose of the Land Division applications is to establish regulations, procedures, and standards for the division or reconfiguration of the boundaries of land within the City of Beaverton. This Section is carried out by the approval criteria listed herein.

[ORD 3226, 11/04/1981; ORD 4224, 09/19/2002; ORD 4487, 08/21/2008]

Effective on: 8/21/2008

40.45.10. Applicability.

The provisions of this section apply to all subdivisions, partitions, developments involving the dedications of public right-of-way, and the reconfiguration of existing property lines. Code requirements for the vacation of public rights-of-way are in Section 40.75. (Street Vacations).

[ORD 3226, 11/04/1981; ORD 4224, 09/19/2002; ORD 4487, 08/21/2008]

Effective on: 8/21/2008

40.45.15. Application.

There are ~~nine (9)~~ 11 types of applications under this Section, as follows: Property Line Adjustment; Replat One; Replat Two; Preliminary Partition; Preliminary Subdivision; Preliminary Fee Ownership Partition; Preliminary Fee Ownership Subdivision; Final Land Division; ~~and~~ Expedited Land Division; Middle Housing Land Division; and Land Division Housing Plan Amendment. [ORD 4584; June 2012]

1. Property Line Adjustment.

- A. Threshold. An application for Property Line Adjustment shall be required when one or more of the following thresholds apply [ORD 4405; October 2006]:

1. The changing of a common boundary of two (2) lots of record where the number of lots or parcels does not change; except a proposal meeting the threshold for a Replat One under Section 40.45.15.2., or Replat Two under Section 40.45.15.3., shall be processed as a Replat and not as a Property Line Adjustment. [ORD 4584; June 2012]
 2. More than one Property Line Adjustment application may be processed concurrently, provided the threshold in Section 40.45.15.1.A.1. is met.
- B. Procedure Type. The Type 1 procedure, as described in Section 50.35. of this Code, shall apply to an application for Property Line Adjustment. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Property Line Adjustment application, the decision making authority shall make findings based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The application satisfies the threshold requirements for a Property Line Adjustment.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The Property Line Adjustment does not conflict with any existing City land use approval, public easement, or previous condition of approval applied to the subject property.
 4. An additional lot or parcel is not created.
 5. The Property Line Adjustment is consistent with all applicable provisions of CHAPTER 20 (Zoning Districts) or Section 70.15 (Downtown Zoning and Streets) if the site is located within the Downtown Design District, unless the applicable provisions are modified by means of one or more applications which shall be already approved or considered concurrently with the Property Line Adjustment. [ORD 4799; January 2021]
 6. The proposal is consistent with all applicable provisions of CHAPTER 60 (Special Regulations), unless the applicable provisions are modified by means of one or more applications which shall be already approved or considered concurrently with the Property Line Adjustment. [ORD 4822; June 2022]
 7. All critical facilities and services have, or can be improved to have, adequate capacity to serve the reconfigured lots.
 8. The proposal will not eliminate pedestrian or vehicle access to the affected properties.
 9. For proposals which create a parcel with more than one zoning designation, the portion of the lot within each zoning designation shall meet the minimum lot size and dimensional requirements of that zoning district.
 10. The application contains all required submittal materials as specified in Section 50.25.1. of the Development Code.
 11. Applications and documents related to the request requiring further City approval shall be submitted to the City in the proper sequence.
- [ORD 4404; October 2006] [ORD 4462; January 2008] [ORD 4487; August 2008]
- D. Submission Requirements. An application for a Lot Line Adjustment shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Lot Line Adjustment application shall be accompanied by the information required by the application form, and by Section 50.25. (Application Completeness), and any other information identified through a Pre-Application Conference.

- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Property Line Adjustment application to ensure compliance with the approval criteria. All Property Line Adjustment decisions shall also require that:
1. The Applicant shall provide evidence to the City that a conveyance instrument conforming to the approved Property Line Adjustment has been recorded at Washington County.
 2. [ORD 4405; October 2006] The applicant for a Property Line Adjustment shall file a record of survey with the County as required by Oregon Revised Statutes Chapter 92. The record of survey shall be subject to review by the City as part of the Property Line Adjustment application, and shall not be subject to further review under Section 40.45.15.8. (Final Land Division). [ORD 4584; June 2012]
- [ORD 4487; August 2008]
- F. Appeal of a Decision. Refer to Section 50.60.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.
2. **Replat One. [ORD 4487; August 2008]**
- A. Threshold. An application for Replat One shall be required when any of the following thresholds apply:
1. The reconfiguration of lots, parcels, or tracts within a single existing plat that decreases or consolidates the number of lots, parcels, or tracts in the plat; [ORD 4584; June 2012]
 2. The creation of a plat for land that has never been part of a previously recorded plat where no new lots or parcels are proposed. [ORD 4584; June 2012]
- [ORD 4584; June 2012]
- B. Procedure Type. The Type 1 procedure, as described in Section 50.35. of this Code, shall apply to an application for Replat involving only the consolidation of lots and not triggering any of the thresholds in Section 40.45.15.3.A.1. through 40.45.15.3.A.3. The decision making authority is the Director. [ORD 4584; June 2012]
- C. Approval Criteria. In order to approve a Replat One application, the decision making authority shall make findings based on evidence provided by the applicant demonstrating that all the following criteria are satisfied.
1. The application satisfies the threshold requirements for a Replat One. [ORD 4584; June 2012]
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposed Replat does not conflict with any existing City approval, except the City may modify prior approvals through the Replat process to comply with current Code standards and requirements.
 4. The application is consistent with applicable requirements of [CHAPTER 20](#), ~~and~~ [CHAPTER 60](#), and [CHAPTER 70](#), unless the applicable provisions are modified by means of one or more applications which shall be already approved or which shall be considered concurrently with the subject application. [ORD 4822; June 2022]
 5. Oversized lots or parcels ("oversized lots") resulting from the Replat shall have a size and shape that facilitates the future potential partitioning or subdividing of such oversized lots in accordance with the requirements of the Development Code. In addition, streets, driveways, and utilities shall be sufficient to serve the proposed lots and future potential development on oversized lots. Easements and rights-of-way shall either exist or be proposed to be created such that future partitioning or subdividing is not precluded or hindered, for either the oversized lot or any affected adjacent lot. [Oversized parcels in the RMA \(except for multi-dwelling structures\), RMB, RMC, and CM-RM zones shall be subject to provisions in Section 20.25.05.1.D.](#) [ORD 4584; June 2012]

6. If phasing is requested by the applicant, the requested phasing plan meets all applicable City standards and provides for necessary public improvements for each phase as the project develops.
7. The proposal will not eliminate pedestrian, utility service, or vehicle access to the affected properties. [ORD 4584; June 2012]
8. For proposals which create a parcel with more than one zoning designation, the portion of the lot within each zoning designation shall meet the minimum lot size and dimensional requirements of that zoning district.
9. Applications and documents related to the request requiring further City approval shall be submitted to the City in the proper sequence.

[ORD 4822; June 2022]

D. Submission Requirements.

1. An application for a Replat One shall be made by the owner(s) of the subject property or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. Provided, however, where the application is made in conjunction with a Legal Lot Determination under Section 40.47., the City may consider the application even if fewer than all the owners of the existing legal lot or parcel have applied for the approval. The Replat One application shall be accompanied by the information required by the application form, and the information required by Section 50.25. (Application Completeness), and any other information identified through a Pre-Application Conference. [ORD 4584; June 2012]

[ORD 4584; June 2012]

- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Replat One application to ensure compliance with the approval criteria. [ORD 4584; June 2012]
- F. Appeal of a Decision. Refer to Section 50.60.
- G. Expiration of a Decision. Refer to Section 50.90. [ORD 4584; June 2012]
- H. Extension of a Decision. Refer to Section 50.93.

3. **Replat Two.** [ORD 4487; August 2008] [ORD 4584; June 2012]

- A. Threshold. An application for Replat Two shall be required when any of the following thresholds apply:
 1. Within an existing plat, new right of way is dedicated to the public or existing right of way is vacated and more than one (1) property is affected by the dedication; provided, however, no public right-of-way shall be vacated without the applicant first obtaining approval under Section 40.75. (Street Vacations);
 2. Within an existing plat, a public easement is conveyed, removed, or modified in such a way that it affects more than one (1) property owner (i.e., multiple properties under different ownership);
 3. The reconfiguration of lots, parcels, or tracts affecting more than one (1) recorded plat, or where the perimeter boundary of a recorded plat would change as a result of the proposed reconfiguration. [ORD 4498; January 2009]
- B. Procedure Type. The Type 2 procedure, as described in Section 50.40. of this Code, shall apply to an application for Replat Two. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Replat Two application, the decision making authority shall make findings based on evidence provided by the applicant demonstrating that all the following criteria are satisfied.
 1. The application satisfies the threshold requirements for a Replat Two.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.

3. The application is consistent with applicable requirements of [CHAPTER 20](#), ~~and~~ [CHAPTER 60](#), and [CHAPTER 70](#), unless the applicable provisions are modified by means of one or more applications which shall be already approved or which shall be considered concurrently with the subject application. [ORD 4822; June 2022]
4. The proposed Replat Two does not conflict with any existing City approval, except the City may modify prior approvals through the Replat process to comply with current Code standards and requirements.
5. Oversized lots or parcels ("oversized lots") resulting from the Replat shall have a size and shape that facilitates the future potential partitioning or subdividing of such oversized lots in accordance with the requirements of the Development Code. In addition, streets, driveways, and utilities shall be sufficient to serve the proposed lots and future potential development on oversized lots. Easements and rights-of-way shall either exist or be proposed to be created such that future partitioning or subdividing is not precluded or hindered, for either the oversized lot or any affected adjacent lot. [Oversized parcels in the RMA \(except for multi-dwelling structures\), RMB, RMC, and CM-RM zones shall be subject to provisions in Section 20.25.05.1.D.](#)
6. If phasing is requested by the applicant, the requested phasing plan meets all applicable City standards and provides for necessary public improvements for each phase as the project develops.
7. The proposal will not eliminate pedestrian, utility service, or vehicle access to the affected properties.
8. For proposals which create a parcel with more than one zoning designation, the portion of the lot within each zoning designation shall meet the minimum lot size and dimensional requirements of that zoning district.
9. Applications and documents related to the request requiring further City approval shall be submitted to the City in the proper sequence. [ORD 4822; June 2022]

D. Submission Requirements.

1. An application for a Replat Two shall be made by the owner(s) of the subject property or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. Provided, however, where the application is made in conjunction with a Legal Lot Determination under Section 40.47., the City may consider the application even if fewer than all the owners of the existing legal lot or parcel have applied for the approval. The Replat Two application shall be accompanied by the information required by the application form, and the information required by Section 50.25. (Application Completeness), and any other information identified through a Pre-Application Conference.
2. The Director may consider and act upon a request to develop a Replat Two in phases. If the Replat Two is to be phased, the applicant shall propose a phasing program in writing at the time of the Replat Two application submittal. The applicant is responsible for providing a time schedule for the final platting of the various phases. In no case shall the total time period for the final platting of all stages be greater than five (5) years without filing a new application.

E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Replat Two application to ensure compliance with the approval criteria.

F. Appeal of a Decision. Refer to Section 50.60.

G. Expiration of a Decision. Refer to Section 50.90. Except where a phasing program is approved under 40.45.15.2.D.2, the filing of a Final Land Division application in accordance with Section 40.45.15.78. shall occur within two (2) years of the date of Replat Two approval. For a phased project, the total time period for the filing of a final plat, shall not exceed five (5) years from the date of the City's final Replat Two approval decision. After five (5) years, unless otherwise vested, the Replat Two approval shall expire.

H. Extension of a Decision. Refer to Section 50.93.

4. Preliminary Partition.

- A. Threshold. An application for Preliminary Partition shall be required when the following threshold applies:
1. The creation of up to and including three (3) new parcels from at least one (1) lot of record (parent parcel) in one (1) calendar year. [ORD 4487; August 2008] [ORD 4584; June 2012]
- B. Procedure Type. The Type 2 procedure, as described in Section 50.40. of this Code, shall apply to an application for Preliminary Partition. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Preliminary Partition application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The application satisfies the threshold requirements for a Preliminary Partition. If the parent parcel is subject to a pending Legal Lot Determination under Section 40.47., further division of the parent parcel shall not proceed until all of the provisions of Section 40.47.15.1.C. have been met. [ORD 4584; June 2012]
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The application is consistent with applicable requirements of CHAPTER 20, ~~and~~ CHAPTER 60, and CHAPTER 70, unless the applicable provisions are modified by means of one or more applications which shall be already approved or which shall be considered concurrently with the subject application. If lots for single-detached or middle housing dwellings are proposed without a concurrent Design Review (Section 40.20), Single-Detached and Middle Housing Design Review (Section 40.21), or Downtown Design Review (Section 40.23) application, the submitted Land Division Housing Plan demonstrates that the proposed Partition meets applicable requirements of Chapter 20 and Chapter 70. [ORD 4822; June 2022]
 4. The proposed partition does not conflict with any existing City approval, except the City may modify prior approvals through the partition process to comply with current Code standards and requirements.
 5. Oversized parcels (oversized lots) resulting from the Partition shall have a size and shape that facilitates the future potential partitioning or subdividing of such oversized lots in accordance with the requirements of the Development Code. In addition, streets, driveways, and utilities shall be sufficient to serve the proposed partition and future potential development on oversized lots. Easements and rights-of-way shall either exist or be proposed to be created such that future partitioning or subdividing is not precluded or hindered, for either the oversized lot or any affected adjacent lot. Oversized parcels in the RMA (except for multi-dwelling structures), RMB, ~~and~~ RMC, and CM-RM zones shall be subject to provisions in Section 20.25.05. ~~d.1.D.~~ [ORD 4584; June 2012] [ORD 4822; June 2022]
 6. For proposals which create a parcel with more than one zoning designation the portion of the lot within each zoning district shall meet the minimum lot size and dimensional requirements of that zoning district. [ORD 4782; April 2020]
 7. If a Preliminary Partition is proposed in the CM-RM zoning district, the submitted Land Division Housing Plan demonstrates that any proposed non-exempt lot that is 4 gross acres or smaller is able to meet the housing variety and integration standards of Section 20.22.40 at the time of future development.
 - ~~7.8.~~ If required Cooper Mountain Parks Overlay open space is proposed in a location that is partially outside the Parks Overlay, the proposed location meets the alternative location standards of Section 20.22.45.3.C.
 - ~~8.9.~~ Applications and documents related to the request requiring further City approval shall be submitted to the City in the proper sequence. [ORD 4487; August 2008] [ORD 4822; June 2022]
- D. Submission Requirements. An application for a Preliminary Partition shall be made by the owner of the subject property or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. Provided, however, where the application is made in conjunction with a Legal Lot Determination

under Section 40.47., the City may consider the application even if fewer than all the owners of the existing legal lot or parcel have applied for the approval. The application shall be accompanied by the information required by the application form, and by the information required by Section 50.25. (Application Completeness), and any other information identified through a Pre-Application Conference. [ORD 4487; August 2008]

- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Preliminary Partition application to ensure compliance with the approval criteria.
 - F. Appeal of a Decision. Refer to Section 50.65.
 - G. Expiration of a Decision. Refer to Section 50.90. The filing of a Final Land Division application in accordance with Section 40.45.15.78. shall occur within two (2) years of the date of Preliminary Partition approval. [ORD 4265; October 2003] [ORD 4487; August 2008]
 - H. Extension of a Decision. Refer to Section 50.93.
5. **Preliminary Subdivision.**
- A. Threshold. An application for Preliminary Subdivision shall be required when the following threshold applies:
 - 1. The creation of four (4) or more new lots from at least one (1) lot of record in one (1) calendar year. [ORD 4487; August 2008]
 - B. Procedure Type. The Type 2 procedure, as described in Section 50.40. of this Code, shall apply to an application for Preliminary Subdivision. The decision making authority is the Director.
 - C. Approval Criteria. In order to approve a Preliminary Subdivision application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
 - 1. The application satisfies the threshold requirements for a Preliminary Subdivision application. If the parent parcel is subject to a pending Legal Lot Determination under Section 40.47., further division of the parent parcel shall not proceed until all of the provisions of Section 40.47.15.1.C. have been met. [ORD 4584; June 2012]
 - 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 - 3. The application is consistent with applicable requirements of [CHAPTER 20](#), ~~and~~ [CHAPTER 60](#), and [CHAPTER 70](#), unless the applicable provisions are modified by means of one or more applications which shall be already approved or which shall be considered concurrently with the subject application. [If lots for single-detached or middle housing dwellings are proposed without a concurrent Design Review \(Section 40.20\), Single-Detached and Middle Housing Design Review \(Section 40.21\), or Downtown Design Review \(Section 40.23\) application, the submitted Land Division Housing Plan demonstrates that the proposed Preliminary Subdivision meets applicable requirements of Chapter 20 and Chapter 70.](#) [ORD 4822; June 2022]
 - 4. The proposed development does not conflict with any existing City approval, except the City may modify prior approvals through the subdivision process to comply with current Code standards and requirements.
 - 5. Oversized lots resulting from the subdivision shall have a size and shape which will facilitate the future potential partitioning or subdividing of such oversized lots in accordance with the requirements of the Development Code. In addition, streets, driveways, and utilities shall be sufficient to serve the proposed subdivision and future potential development on oversized lots. Easements and rights-of-way shall either exist or be proposed to be created such that future partitioning or subdividing is not precluded or hindered, for either the oversized lot or any affected adjacent lot. [Oversized parcels in the RMA \(except for multi-dwelling structures\), RMB, RMC, and CM-RM zones shall be subject to provisions in Section 20.25.05.1.D.](#) [ORD 4584; June 2012]

6. If phasing is requested by the applicant, the requested phasing plan meets all applicable City standards and provides for necessary public improvements for each phase as the project develops.
7. For proposals which create a parcel with more than one zoning designation the portion of the lot within each zoning district shall meet the minimum lot size and dimensional requirements of that zoning district. [ORD 4584; June 2012] [ORD 4782; April 2020]
8. If a Preliminary Subdivision is proposed in the CM-RM zoning district, the submitted Land Division Housing Plan demonstrates that any proposed non-exempt lot that is 4 gross acres or smaller is able to meet the housing variety and integration standards of Section 20.22.40 at the time of future development.
9. If required Cooper Mountain Parks Overlay open space is proposed in a location that is partially outside the Parks Overlay, the proposed location meets the alternative location standards of Section 20.22.45.3.C.
10. Applications and documents related to the request requiring further City approval shall be submitted to the City in the proper sequence. [ORD 4487; August 2008]

[ORD 4822; June 2022]

D. Submission Requirements.

1. An application for a Preliminary Subdivision shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. Provided, however, where the application is made in conjunction with a Legal Lot Determination under Section 40.47., the City may consider the application even if fewer than all the owners of the existing legal lot or parcel have applied for the approval. The Preliminary Subdivision application shall be accompanied by the information required by the application form, and by Section 50.25. (Application Completeness), and any other information identified through a Pre-Application Conference.
2. The Director may consider and act upon a request to develop a subdivision in phases. If the subdivision is to be phased, the applicant shall propose a phasing program in writing at the time of Preliminary Subdivision application submittal. The applicant is responsible for providing a time schedule for the final platting of the various phases. In no case shall the total time period for the final platting of all stages be greater than five (5) years without filing a new Preliminary Subdivision application.

[ORD 4487; August 2008]

E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Preliminary Subdivision application to ensure compliance with the approval criteria.

F. Appeal of a Decision. Refer to Section 50.65.

G. Expiration of a Decision. Refer to Section 50.90. Except where a phasing program is approved under Section 40.45.15.4.C.7., the filing of a Final Land Division application in accordance with Section 40.45.15.7. shall occur within two (2) years of the date of Preliminary Subdivision approval. For a phased project, the total time period for the filing of a final plat, shall not exceed five (5) years from the date of the City's final Preliminary Subdivision Approval decision. After five (5) years, unless otherwise vested, the preliminary approval shall expire. [ORD 4265; October 2003] [ORD 4487; August 2008]

H. Extension of a Decision. Refer to Section 50.93.

6. **Preliminary Fee Ownership Partition.**

A. Threshold. An application for Preliminary Fee Ownership Partition shall be required when the following threshold applies:

1. The creation of up to and including three (3) new parcels from at least one (1) lot of record in one (1) calendar year in a Commercial, Industrial or Multiple Use zone, where one or more of the proposed parcels does not meet one or more of the setback, lot coverage, floor area ratio, and/or lot dimension standards

of CHAPTER 20 (Zoning Districts) or Section 70.15 (Downtown Zoning and Streets) if the site is located within the Downtown Design District, as applicable; and where modification to the same standard(s) is not requested through another type of application. [ORD 4265; October 2003] [ORD 4397; August 2006] [ORD 4487; August 2008] [ORD 4799; January 2021]

- B. Procedure Type. The Type 2 procedure, as described in Section 50.40. of this Code, shall apply to an application for Preliminary Fee Ownership Partition. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Preliminary Fee Ownership Partition application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The application satisfies the threshold requirements for a Preliminary Fee Ownership Partition application. If the parent parcel is subject to a pending Legal Lot Determination under Section 40.47., further division of the parent parcel shall not proceed until all of the provisions of Section 40.47.15.1.C. have been met. [ORD 4584; June 2012]
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposed development does not conflict with any existing City approval, except the City may modify prior approvals through the Preliminary Fee Ownership Partition process to comply with current Code standards and requirements.
 4. The parent parcel shall meet the minimum setback requirements for the applicable zoning district unless the setback is subject to an Adjustment, Variance, ~~Flexible Setback,~~ or Zero ~~Side~~-Yard Setback for a proposed Non-Residential Land Division application which shall be considered concurrently with the subject proposal.
 5. For proposals which create a parcel with more than one zoning designation the portion of the lot within each zoning district shall meet the minimum lot size and dimensional requirements of that zoning district. [ORD 4782; April 2020]
 6. Applications and documents related to the request requiring further City approval shall be submitted to the City in the proper sequence.
[ORD 4487; August 2008]
- D. Submission Requirements. An application for a Preliminary Fee Ownership Partition shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. Provided, however, where the application is made in conjunction with a Legal Lot Determination under Section 40.47., the City may consider the application even if fewer than all the owners of the existing legal lot or parcel have applied for the approval. The application shall be accompanied by the information required by the application form, and by the information required by Section 50.25. (Application Completeness), and any other information identified through a Pre-Application Conference. [ORD 4487; August 2008]
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Preliminary Fee Ownership Partition application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.65.
- G. Expiration of a Decision. Refer to Section 50.90. The filing of a Final Land Division application shall occur within two (2) years of the date of Preliminary Fee Ownership Partition approval. [ORD 4265; October 2003]
- H. Extension of a Decision. Refer to Section 50.93.
7. **Preliminary Fee Ownership Subdivision.**

- A. Threshold. An application for Preliminary Fee Ownership Subdivision shall be required when the following threshold applies:
1. The creation of four (4) or more new lots from at least one (1) lot of record in one (1) calendar year in a Commercial, Industrial or Multiple Use zone, where one or more of the proposed parcels does not meet the setback, lot coverage, floor area ratio, and/or lot dimension standards of [CHAPTER 20](#) (Zoning Districts) or [Section 70.15](#) (Downtown Zoning and Streets) if the site is located within the Downtown Design District, as applicable, and where modification to the same standard(s) is not requested through another type of application. [ORD 4265; October 2003] [ORD 4397; August 2006] [ORD 4487; August 2008] [ORD 4584; June 2012] [ORD 4799; January 2021]
- B. Procedure Type. The Type 2 procedure, as described in [Section 50.40](#) of this Code, shall apply to an application for Preliminary Fee Ownership Subdivision. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Preliminary Fee Ownership Subdivision application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The application satisfies the threshold requirements for a Preliminary Fee Subdivision. If the parent parcel is subject to a pending Legal Lot Determination under [Section 40.47.](#), further division of the parent parcel shall not proceed until all of the provisions of [Section 40.47.15.1.C.](#) have been met. [ORD 4584; June 2012]
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The parent parcel shall meet the minimum setback requirements for the applicable zoning district unless the setback is subject to an Adjustment, Variance, ~~Flexible Setback~~, or Zero ~~Side~~-Yard Setback for a proposed Non-Residential Land Division application which shall be considered concurrently with the subject proposal.
 4. The proposed development does not conflict with any existing City approval, except the City may modify prior approvals through the Preliminary Fee Ownership Subdivision process to comply with current Code standards and requirements.
 5. If phasing is requested by the applicant, the requested phasing plan meets all applicable City standards and provide for necessary public improvements for each phase as the project develops.
 6. For proposals which create a parcel with more than one zoning designation the portion of the lot within each zoning district shall meet the minimum lot size and dimensional requirements of that zoning district. [ORD 4584; June 2012] [ORD 4782; April 2020]
 7. Applications and documents related to the request requiring further City approval shall be submitted to the City in the proper sequence.
- [ORD 4487; August 2008]
- D. Submission Requirements.
1. An application for a Preliminary Fee Ownership Subdivision shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. Provided, however, where the application is made in conjunction with a Legal Lot Determination under [Section 40.47.](#), the City may consider the application even if fewer than all the owners of the existing legal lot or parcel have applied for the approval. The application shall be accompanied by the information required by the application form, the information required by [Section 50.25](#). (Application Completeness), and any other information identified through a Pre-Application Conference.
 2. The Director may consider and act upon a request to develop a subdivision in phases. If the subdivision is to be phased, the applicant shall propose a phasing program in writing at the time of Preliminary Fee

Ownership Subdivision application submittal. The applicant is responsible for providing a time schedule for the final platting of the various phases. In no case shall the total time period for the final platting of all stages be greater than five (5) years without filing a new Preliminary Fee Ownership Subdivision application.

- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Preliminary Fee Ownership Subdivision application to ensure compliance with the approval criteria.
 - F. Appeal of a Decision. Refer to Section 50.65.
 - G. Expiration of a Decision. Refer to Section 50.90. Except where a phasing program is approved under 40.45.15.67.D.2, the filing of a Final Land Division application in accordance with Section 40.45.15.78 shall occur within two (2) years of the date of Preliminary Fee Ownership Subdivision approval. For a phased project, the total time period for the filing of a final plat, shall not exceed five (5) years from the date of the City's final Preliminary Fee Ownership Subdivision Approval decision. After five (5) years, unless otherwise vested, the preliminary approval shall expire. [ORD 4265; October 2003] [ORD 4487; August 2008]
 - H. Extension of a Decision. Refer to Section 50.93.
8. **Final Land Division.**
- A. Threshold. An application for Final Land Division shall be required when the following threshold applies:
 - 1. A proposal to finalize a previously approved Preliminary Partition, Preliminary Subdivision, Preliminary Fee Ownership Partition, Preliminary Fee Ownership Subdivision, Replat Two, Expedited Land Division, Preliminary Middle Housing Land Division, or Legal Lot Determination, as applicable. [ORD 4487; August 2008] [ORD 4584; June 2012] [ORD 4822; June 2022]
 - B. Procedure Type. The Type 1 procedure, as described in Section 50.35 of this Code, shall apply to an application for Final Land Division, except a Final Land Division shall not be required for a Replat One approval which involves only the consolidation of lots pursuant to Section 40.45.15.2.A.1. The decision making authority is the Director. [ORD 4498; January 2009]
 - C. Approval Criteria. In order to approve a Final Land Division application, the decision making authority shall make findings based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
 - 1. The application satisfies the threshold requirements for a Final Land Division.
 - 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 - 3. The application contains all applicable submittal materials as specified in Section 50.25.1 of the Development Code. [ORD 4265; October 2003]
 - 4. The Final Land Division substantially conforms to the previously approved and unexpired Legal Lot Determination, Preliminary Partition, Preliminary Subdivision, Preliminary Fee Ownership Partition, Preliminary Fee Ownership Subdivision, Replat Two, Expedited Land Division, or Preliminary Middle Housing Land Division. [ORD 4584; June 2012] [ORD 4822; June 2022]
 - 5. Applications and documents related to the Final Land Division requiring further City approval shall be submitted to the City in the proper sequence.

[ORD 4487; August 2008]
 - D. Submission Requirements. An application for a Final Land Division shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. Provided, however, that if the preliminary land division approval was on an application signed by fewer than all the owners of the subject property, as allowed in conjunction with Section 40.47. (Legal Lot

Determination) the City may similarly approve a final plat application made by fewer than all the owners of the subject property. The Final Land Division application shall be accompanied by the information required by the application form, and by Section 50.25. (Application Completeness), and any other information identified through a Pre-Application Conference.

- E. Appeal of a Decision. Refer to Section 50.60.
- F. Expiration of a Decision. Refer to Section 50.90.
- G. Extension of a Decision. Refer to Section 50.93.

9. Expedited Land Division

An application for and any appeal of an Expedited Land Division shall be subject to the provisions in this Code and in ORS 197.360 through ORS 197.380. [ORD 4822; June 2022]

- A. Threshold. For an Expedited Land Division application to be considered, the following eligibility criteria must be met:
 - 1. The land is zoned for residential use and is within the urban growth boundary.
 - 2. The land is solely for the purpose of residential use, including recreational or open space uses accessory to residential use.
 - 3. The land division will not provide for dwellings or accessory buildings to be located on land that is specifically mapped and designated in the comprehensive plan and land use regulations for full or partial protection of natural features under the statewide planning goals that protect open spaces, scenic and historic areas, and natural resources.
 - 4. The land division satisfies minimum street or other right-of-way connectivity standards established by the City's acknowledged land use regulations.
 - 5. The land division will result in development that either:
 - a. Creates enough lots or parcels to allow building residential units at 80 percent or more of the maximum net density permitted by the zoning designation of the site; or
 - b. Will be sold or rented to households with incomes below 120 percent of the median family income for the county in which the project is built.
- B. Procedure Type. Unless the applicant requests to use the procedure set forth in Section 40.45.15.4. or 40.45.15.5.B., as applicable, the procedure described in Section 50.53. of this Code shall apply to an application for Expedited Land Division. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Preliminary Expedited Land Division application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
 - 1. The application satisfies the eligibility requirements for an Expedited Land Division application.
 - 2. The application satisfies the approval criteria for a Preliminary Partition or Preliminary Subdivision (Section 40.45.15.4. or 40.45.15.5.), as applicable.
- D. Submission Requirements. In addition to the requirements of Section 40.45.15.4. or 40.45.15.5., as applicable, an application for an Expedited Land Division shall describe the manner in which the proposed division complies with each of the provisions of Section 40.45.15.9.A.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Preliminary Expedited Land Division application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.53.
- G. Expiration of a Decision. Refer to Section 50.90.

H. Extension of a Decision. Refer to Section 50.93.

[ORD 4822; June 2022]

10. **Preliminary Middle Housing Land Division**. [ORD 4822; June 2022]

- A. Applicability. A middle housing land division is a partition or subdivision of a lot within the RMA, RMB, ~~or RMC~~, or CM-RM zoning districts on which middle housing has been developed, approved for development, or is concurrently proposed under the provisions of this Code and ORS 197.758. Middle housing land divisions are regulated by this Code and ORS 92.
- B. Threshold. An application for Preliminary Middle Housing Land Division shall be required when the following threshold applies:
1. The division of one (1) lot of record within the RMA, RMB, RMC or CM-RM zoning districts into ~~up to~~ four (4) new or fewer lots on which middle housing has been developed or approved for development under the provisions of this Code and ORS 197.758, or is proposed concurrently with this application.
 2. The division of one (1) lot of record within the RMA, RMB, RMC or CM-RM zoning districts into five (5) or more new lots on which a cottage cluster has been developed or approved for development under the provisions of this Code and ORS 197.758, or is proposed concurrently with this application.
- C. Procedure Type. Unless the applicant requests to use the procedure set forth in Section 40.45.15.4.B. or 40.45.15.5.B., as applicable, the procedure described in Section 50.53. of this Code shall apply to an application for Preliminary Middle Housing Land Division. The decision making authority is the Director. Concurrent land use applications shall be processed pursuant to BDC 50.15.
- D. Approval Criteria. In order to approve a Preliminary Middle Housing Land Division application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The application satisfies the threshold requirements for a Preliminary Middle Housing Land Division application. If the parent lot is subject to a pending Legal Lot Determination under Section 40.47., further division of the parent lot shall not proceed until all of the provisions of Section 40.47.15.C. have been met.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposed development does not conflict with any existing City approval, except the City may modify prior approvals through the land division process to comply with current Code standards and requirements.
 4. The middle housing development complies with the Oregon Residential Specialty Code and the applicable BDC middle housing regulations, including but not limited to, the provisions in Chapters 20 and 60.
 5. Separate public utilities will be provided for each dwelling unit.
 6. Easements will be provided as necessary for each dwelling unit on the site for:
 - a. Locating, accessing, replacing, and servicing all utilities;
 - b. Pedestrian access from each dwelling unit to a private or public road;
 - c. Any common use areas or shared building elements;
 - d. Any dedicated driveways or parking; and
 - e. Any dedicated common area.
 7. Exactly one dwelling unit will be located on each resulting lot (referred to as middle housing child lots), except for lots or tracts used as common areas, on which no dwelling units will be permitted.

8. Buildings or structures on a resulting child lot will comply with applicable building codes provisions relating to new property lines.
 9. Where the subject site abuts a street that does not meet City standards, street frontage improvements will be constructed and, if necessary, additional right-of-way will be dedicated, pursuant to Section 60.55.
 10. Applications and documents related to the request requiring further City approval shall be submitted to the City in the proper sequence.
- E. Submission Requirements. In addition to the items listed in Section 40.45.15.4. or 40.45.15.5. (as applicable), an application for a Preliminary Middle Housing Land Division shall include the following:
1. A description of the manner in which the proposed division complies with each of the provisions of Section 40.45.15.10.D necessary to demonstrate:
 - a. How buildings or structures on a resulting child lot will comply with applicable building codes provisions related to new property lines; and
 - b. Notwithstanding the creation of new lots, how structures or buildings located on the newly created child lots will comply with the Oregon Residential Specialty Code.
 2. Copies of a plat showing the following details:
 - a. Separate utilities for each dwelling unit, demonstrating compliance with approval criterion 40.45.15.10.D.5.
 - b. Existing or proposed easements necessary for each dwelling unit on the plan, demonstrating compliance with approval criterion 40.45.15.10.D.6.
 3. Copies of all required easements in a form approved by the City Attorney.
- F. Conditions of Approval.
1. The decision making authority may impose conditions on the approval of a Preliminary Middle Housing Land Division application to:
 - a. Ensure compliance with the approval criteria.
 - i. If Middle Housing is not yet completed or approved, a condition shall be imposed requiring submission of approved building permits and/or land use applications demonstrating that the proposed development complies with the Oregon Residential Specialty Code and BDC middle housing regulations to demonstrate compliance with Criterion 4.
 - b. Prohibit further division of the resulting child lots.
 - c. Require that a notation appear on the final plat indicating:
 - i. The approval was given under ORS 92.
 - ii. The type of middle housing approved on the subject site and noting that this middle housing type shall not altered by the middle housing land division.
 - iii. Accessory dwelling units are not permitted on child lots resulting from a middle housing land division.
 - d. Require that all site improvements required to satisfy applicable standards of the BDC have been constructed prior to issuance of a Certificate of Occupancy for the development.
 2. In accordance with ORS 92, the decision making authority shall not impose conditions of approval requiring that a child lot require driveways, vehicle access, parking, or minimum or maximum street frontage.
- G. Appeal of a Decision. Refer to Sections 50.53.I. and J.

- H. Expiration of a Decision. The preliminary approval of a Middle Housing Land Division is void if and only if a final Middle Housing Land Division plat is not approved within three (3) years of the preliminary approval. Refer to Section 50.90.
 - I. Extension of a Decision. Refer to Section 50.93.
11. Land Division Housing Plan Amendment.
- A. Thresholds. An application for Land Division Housing Plan Amendment shall be required when one or more of the following thresholds apply:
 - 1. One or more of the following amendments are proposed to an approved Land Division Housing Plan associated with an existing Land Division approval:
 - a. A decrease in the number of dwelling units on one or more lots;
 - b. On lot(s) subject to the housing variety and integration standards of Section 20.22.40:
 - i. Changing the dwelling type on a lot to a different housing variety category of Section 20.22.40.3.A;
 - ii. Changing the dwelling type to a type that is not a part of a housing variety category of Section 20.22.40.3.A such as changing the dwelling type on a lot from a triplex to a single-detached dwelling; or
 - iii. Modifying or eliminating the approach to the Visitability Option of Section 20.22.40.3.C on one or more lots.
 - B. Procedure Type. The Type 1 procedure, as described in Section 50.35 of this Code, shall apply to an application for Land Division Housing Plan Amendment. The decision making authority is the Director.
 - C. Approval Criteria. In order to approve a Land Division Housing Plan Amendment application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
 - 1. The application satisfies the threshold requirements for a Land Division Housing Plan Amendment.
 - 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 - 3. The Land Division Housing Plan Amendment does not conflict with any existing City land use approval, public easement, or previous condition of approval applied to the subject site, except as amended by this application.
 - 4. The proposal is consistent with all applicable provisions of CHAPTER 20 (Zoning Districts) or Section 70.15 (Downtown Zoning and Streets) if the site is located within the Downtown Design District, unless the applicable provisions are modified by means of one or more applications which shall be already approved or considered concurrently with the Land Division Housing Plan Amendment.
 - 5. The proposal is consistent with all applicable provisions of CHAPTER 60 (Special Requirements), unless the applicable provisions are modified by means of one or more applications which shall be already approved or considered concurrently with the Land Division Housing Plan Amendment.
 - 6. Lot lines are not proposed to be adjusted, and no new lots are created.
 - 7. The application contains all required submittal materials as specified in Section 50.25.1. of the Development Code.
 - 8. Applications and documents related to the request requiring further City approval shall be submitted to the City in the proper sequence.

- D. Submission Requirements. An application for a Land Division Housing Plan Amendment shall be made by the owner(s) of the subject property or the owner’s authorized agent, on a form provided by the Director and shall be filed with the Director. The Land Division Housing Plan Amendment application shall be accompanied by the information required by the application form, the information required by Section 50.25. (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Land Division Housing Plan Amendment application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.60.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

[ORD 3226, 11/04/1981; ORD 3355, 02/24/1982; ORD 3352, 01/19/1984; ORD 3494, 03/27/1986; ORD 3555, 04/17/1987; ORD 3556, 04/23/1987; ORD 3740, 08/21/1990; ORD 3739, 09/08/1990; ORD 3965, 11/07/1996; ORD 3976, 05/15/1997; ORD 3989, 08/14/1997; ORD 4006, 03/05/1998; ORD 4061, 10/15/1999; ORD 4071, 11/25/1999; ORD 4079, 12/09/1999; ORD 4107, 05/02/2000; ORD 4111, 07/14/2000; ORD 4118, 09/14/2000; ORD 4224, 09/19/2002; ORD 4265, 10/09/2003; ORD 4397, 08/10/2006; ORD 4404, 10/19/2006; ORD 4405, 10/19/2006; ORD 4462, 01/10/2008; ORD 4487, 08/21/2008; ORD 4498, 01/15/2009; ORD 4584, 06/01/2012; ORD 4652, 03/06/2015; ORD 4654, 03/25/2015; ORD 4782, 04/17/2020; ORD 4799, 01/08/2021; ORD 4822, 06/30/2022]

Effective on: 6/30/2022

Commentary: Section 40.58 Sidewalk Design Modification

The proposed changes to the Sidewalk Design Modification application would add “Resource Overlay” to the list of environmental conditions that are described in the approval criteria.

40.58. Sidewalk Design Modification

[ORD 4418, 02/22/2007; ORD 4531, 04/01/2010]

40.58.05. Purpose.

The purpose of the Sidewalk Design Modification application is to provide a mechanism whereby the City’s street design standards relating to the locations and dimensions of sidewalks or required street landscaping can be modified to address existing conditions and constraints as a specific application. For purposes of this section, sidewalk ramps constructed with or without contiguous sidewalk panels leading to and away from the ramp shall be considered sidewalks. This section is implemented by the approval criteria listed herein.

[ORD 4418, 02/22/2007; ORD 4531, 04/01/2010]

Effective on: 4/1/2010

40.58.10. Applicability.

The Sidewalk Design Modification application shall be applicable to all streets in the City. Sidewalks in Commercial and Multiple Use zones that are subject to and comply with Section 60.05.20.7 are exempt from the Sidewalk Design Modification application.

[ORD 4418, 02/22/2007; ORD 4531, 04/01/2010]

Effective on: 4/1/2010

40.58.15. Application.

There is a single Sidewalk Design Modification application which is subject to the following requirements.

- A. Threshold. An application for Sidewalk Design Modification shall be required when one of the following thresholds applies:
1. The sidewalk width, planter strip width, or both minimum standards specified in the *Engineering Design Manual* are proposed to be modified.
 2. The dimensions or locations of street tree wells specified in the *Engineering Design Manual* are proposed to be modified.
- B. Procedure Type. The Type 1 procedure, as described in Section 50.35. of this Code, shall apply to an application for Sidewalk Design Modification. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Sidewalk Design Modification application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Sidewalk Design Modification application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. One or more of the following criteria are satisfied:
 - a. That there exist local topographic conditions, which would result in any of the following:
 - i. A sidewalk that is located above or below the top surface of a finished curb.
 - ii. A situation in which construction of the *Engineering Design Manual* standard street cross-section would require a steep slope or retaining wall that would prevent vehicular access to the adjoining property.
 - b. That there exist local physical conditions such as:
 - i. An existing structure prevents the construction of a standard sidewalk.
 - ii. An existing utility device prevents the construction of a standard sidewalk.
 - iii. Rock outcroppings prevent the construction of a standard sidewalk without blasting.
 - c. That there exist environmental conditions such as a Significant Natural Resource Area, Jurisdictional Wetland, Clean Water Services Water Quality Sensitive Area, Clean Water Services required Vegetative Corridor, ~~or~~ Significant Tree Grove, or Resource Overlay.
 - d. That additional right of way is required to construct the *Engineering Design Manual* standard and the adjoining property is not controlled by the applicant.
 4. The proposal complies with provisions of Section 60.55.25. (Street and Bicycle and Pedestrian Connection Requirements) and 60.55.30 (Minimum Street Widths).
 5. Applications and documents related to the request, which will require further City approval, have been submitted to the City in the proper sequence.
 6. The proposed Sidewalk Design Modification provides safe and efficient pedestrian circulation in the site vicinity.

- D. Submission Requirements. An application for a Sidewalk Design Modification shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Sidewalk Design Modification application shall be accompanied by the information required by the application form, and by Section 50.25. (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Sidewalk Design Modification application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.65.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

[ORD 4418, 02/22/2007; ORD 4531, 04/01/2010]

Effective on: 6/1/2012

Commentary: Section 40.70 – Resource Overlay

The proposed amendments in this new section would be for activities on properties that contain the Resource Overlay. There are five (5) resource overlay applications that will apply in Cooper Mountain. Most development activity will go through a Type 1 process to verify that the development plans meet the Resource Overlay requirements in Section 60.37. Applicants that believe the Resource Overlay has been drawn incorrectly can use a Type 1 process to request corrections based on more accurate technical information. A Type 3 boundary correction will be required for boundary changes that require more discretion to evaluate the findings of the natural resources report.

Properties that would like to propose an alternative mitigation procedure to protect significant natural resources can apply for an alternative review to demonstrate how the proposed development will meet the objectives of avoiding, limiting impacts, and then mitigating for impacts to significant natural resources.

40.70. Resource Overlay

40.70.05. Purpose.

The purpose of Resource Overlay applications is to implement the natural resource protections of the Resource Overlay. This Section provides for the review of allowed uses in the Resource Overlay and a path to correct the Resource Overlay boundary, separate from the development review process. This Section is carried out by the approval criteria listed herein.

40.70.10. Applicability.

1. The provisions of this Section apply for the following actions:
 - A. Land divisions and property line adjustments on properties that contain the Resource Overlay.
 - B. Proposed non-exempt clearing, grading, or site improvements within the Resource Overlay consistent with Section 60.37.30, such as land use applications and site development and building permits.
 - C. Proposed corrections or amendments to the boundary of the Resource Overlay.

40.70.15. Applications.

There are four Resource Overlay applications, which are subject to the following requirements.

1. Resource Overlay - Development

- A. Threshold. An application for Resource Overlay - Development shall be required when one or more of the following thresholds apply:
 - 1. Sites with proposed clearing, grading, or site improvements within the Resource Overlay, excluding activity that is exempt under Section 60.37.30.
 - 2. A Land Division is proposed in accordance with Section 40.45 on property that contains Resource Overlay.
 - 3. A Property Line Adjustment is proposed in accordance with Section 40.45 on property that contains the Resource Overlay.
- B. Procedure Type. The Type 1 procedure, as described in Section 50.35 of this Code, shall apply to an application for Resource Overlay - Development. The decision-making authority is the Director.
- C. Approval Criteria. To approve an application for Resource Overlay - Development, the decision-making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
 - 1. The proposal satisfies the threshold requirement for Resource Overlay - Development.
 - 2. All City application fees related to the application under consideration by the decision-making authority have been submitted.
 - 3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1. of the Development Code.
 - 4. The proposal is consistent with all applicable provisions of CHAPTER 20 (Zoning Districts) of the Development Code.
 - 5. The proposal complies with all applicable provisions in CHAPTER 60 (Special Requirements).
 - 6. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for Resource Overlay - Development shall be submitted by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The application shall be accompanied by the information required by the application form, and by Section 50.25. (Application Completeness) and any other information identified through a Pre-Application Conference. A Resource Overlay - Development application shall also include the following:
 - 1. Existing Conditions Map. For the entire subject property, a scaled map of the property that includes:
 - a. Location of the boundary of the Resource Overlay on the site.
 - b. Outline of any existing disturbance area, including the location of existing adjacent streets and paved areas, utilities, culverts, stormwater management facilities, or bridges.
 - c. Location of any known wetlands, waterways, or other waters on the site.
 - d. Location of the Floodplain Overlay and floodway boundary, as defined by the Federal Emergency Management Agency (FEMA).
 - e. Site topography at 2-foot contour intervals. On sites that are two acres or larger, topographic contours are only required for the portion of the property within the proposed disturbance area.
 - 2. Proposed Site Plan. A scaled map of the site that includes:
 - a. Proposed lot lines and easements.

- b. Detailed site plan of proposed development activity.
- c. Outline of total permanent and temporary disturbance areas, including proposed building footprints, site property improvements, utilities, grading, landscaping, and areas of disturbance during construction.
- d. Location and square footage of vegetation to be removed.
- e. Proposed site grading at 2-foot contour intervals.
- 3. Proposed Mitigation Plan. The application shall include a mitigation plan in accordance with Section 60.37.55.
- 4. A narrative demonstrating compliance with applicable standards in Section 60.37.
- E. Conditions of Approval. The decision-making authority may impose conditions on the approval of an application for Resource Overlay - Development to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.60.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.
- 2. **Resource Overlay - Boundary Correction Type 1**
 - A. Threshold. An application for Resource Overlay - Boundary Correction Type 1 shall be required to make a basic boundary correction to the boundary of the Resource Overlay for one of the reasons outlined in Table 60.37.15.2. This includes the following reasons:
 - 1. The Resource Overlay map is inaccurate based on a clear misalignment of the GIS layers.
 - 2. The location of wetland or other water feature has been incorrectly identified or the stream classification is inaccurate.
 - 3. The upland habitat area not associated with a wetland or water feature does not accurately reflect the site conditions that were present on the effective date of the ordinance adopted by the Metro Council to bring the subject property within the Metro UGB.
 - B. Procedure Type. The Type 1 procedure, as described in Section 50.35 of this Code, shall apply to a Resource Overlay - Boundary Correction Type 1. The decision-making authority is the Director.
 - C. Approval Criteria. To approve a Resource Overlay - Boundary Correction Type 1, the decision-making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
 - 1. The proposal satisfies the threshold requirement for a Resource Overlay - Boundary Correction Type 1 application.
 - 2. All City application fees related to the application under consideration by the decision-making authority have been submitted.
 - 3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code.
 - 4. The proposal complies with all applicable provisions in CHAPTER 60 (Special Requirements).
 - 5. The location of the proposed boundary of the Resource Overlay is consistent with the resource categories and classifications of Table 60.37.15.1 and the map correction documentation of Table 60.37.15.2.
 - 6. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
 - D. Submission Requirements. An application for a Resource Overlay - Boundary Correction Type 1 shall be submitted by the owner of the subject property, or the owner's authorized agent, on a form provided by the

Director and shall be filed with the Director. The application shall be accompanied by the information required by the application form, and by Section 50.25. (Application Completeness), and any other information identified through a Pre-Application Conference. A Resource Overlay - Boundary Correction Type 1 shall also include the following:

1. Boundary Correction Map. For the entire subject property, a scaled map of the property that includes:
 - a. Location of the existing boundary of the Resource Overlay on the property.
 - b. Location of any known wetlands or other waters on the property.
 - c. Location of the proposed modified boundary of the Resource Overlay on the property.
 2. Basic Boundary Correction Documentation, consistent with Section 60.37.15.
 3. A narrative demonstrating the proposed map boundary corrections are consistent with the applicable standards for a Resource Overlay Boundary Correction in Section 60.37.15.
- E. Conditions of Approval. The decision-making authority may impose conditions on the approval of a Resource Overlay - Boundary Correction Type 1 application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.60.
3. **Resource Overlay - Boundary Correction Type 3**
- A. Threshold. An application for Resource Overlay - Boundary Correction Type 3 shall be required to correct the boundary of the Resource Overlay for a reason that does not meet the thresholds for Resource Overlay - Boundary Correction Type 1.
 - B. Procedure Type. The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to a Resource Overlay - Boundary Correction Type 3. The decision making authority is the Planning Commission.
 - C. Approval Criteria. To approve a Resource Overlay - Boundary Correction Type 3 application, the decision-making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
 1. The proposal satisfies the threshold requirement for a Resource Overlay - Boundary Correction Type 3 application.
 2. All City application fees related to the application under consideration by the decision-making authority have been submitted.
 3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code.
 4. The proposal complies with all applicable provisions in CHAPTER 60 (Special Requirements).
 5. The proposal demonstrates that the location and/or attributes of the inventoried natural resources on the site as described in the applicable Natural Resources Report is inaccurate and that natural resources meeting the criteria for inclusion in the Natural Resources Inventory were not present on the effective date of the ordinance adopted by the Metro Council to bring the subject property within the Metro UGB.
 6. The location of the proposed boundary of the Resource Overlay is consistent with the detailed boundary correction documentation materials of Section 60.37.15.
 7. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
 - D. Submission Requirements. An application for a Resource Overlay - Boundary Correction Type 3 shall be submitted by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The application shall be accompanied by the information required by the application form, and by Section 50.25. (Application Completeness), and any other information

identified through a Pre-Application Conference. A Resource Overlay - Boundary Correction Type 3 shall also include the following:

1. Boundary Correction Map. For the entire subject property, a scaled map of the property that includes:
 1. Location of the existing boundary of the Resource Overlay on the property.
 2. Location of any known wetlands or other waters on the property.
 3. Location of the proposed modified boundary of the Resource Overlay on the property.
 2. Detailed Boundary Correction Documentation, consistent with Section 60.37.15.
 3. A narrative demonstrating the proposed map boundary corrections are consistent with the applicable standards for a Detailed Boundary Correction in Section 60.37.15.
 - E. Conditions of Approval. The decision-making authority may impose conditions on the approval of a Resource Overlay - Boundary Correction Type 3 application to ensure compliance with the approval criteria.
 - F. Appeal of a Decision. Refer to Section 50.65.
4. **Resource Overlay - Alternative Review**
- A. Threshold. An application for Resource Overlay - Alternative Review shall be required when one or more of the following thresholds apply:
 1. Sites with proposed clearing, grading, or site improvements within the Resource Overlay that do not comply with the standards of Sections 60.37.35 or 60.37.50 or with the mitigation standards of Section 60.37.45.
 2. A Land Division of property that contains Resource Overlay that does not comply with the applicable standards of Section 60.37.30.
 - B. Procedure Type. The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to a Resource Overlay - Alternative Review. The decision-making authority is the Planning Commission.
 - C. Approval Criteria. To approve an application for Resource Overlay - Alternative Review, the decision-making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
 1. The proposal satisfies the threshold requirement for a Resource Overlay - Alternative Review application.
 2. All City application fees related to the application under consideration by the decision-making authority have been submitted.
 3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1. of the Development Code.
 4. The proposal complies with all applicable provisions in CHAPTER 60 (Special Requirements).
 5. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
 6. Special conditions or circumstances exist on the site that make it physically difficult or impossible to develop an otherwise acceptable proposal without disturbing the Resource Overlay beyond the allowable limits in Section 60.37.30 or 60.37.40.
 7. The special conditions and circumstances do not result from the actions of the applicant and such conditions and circumstances do not merely constitute financial hardship or inconvenience.
 8. The proposal does not result in greater impacts to the ecological functions provided by the habitat areas that will be disturbed in the Resource Overlay, compared to other practicable alternatives presented in the Alternatives Analysis and Impact Evaluation.

- 9. The proposed mitigation plan is consistent with the requirements of Section 60.37.45, or an alternative mitigation plan is consistent with the requirements of Section 60.37.50.1.B.
- D. Submission Requirements. An application for a Resource Overlay - Alternative Review shall be submitted by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The application shall be accompanied by the information required by the application form, and by Section 50.25. (Application Completeness), and any other information identified through a Pre-Application Conference. A Resource Overlay - Alternative Review shall also include the following:
 - 1. Alternatives Analysis and Impact Evaluation consistent with the standards in Section 60.37.50.
 - 2. Mitigation Plan for Alternative Review consistent with the standards in Section 60.37.50.
 - 3. A narrative demonstrating the proposed alternative mitigation plan is consistent with the applicable design guidelines for Alternative Review in Section 60.37.50.
- E. Conditions of Approval. The decision-making authority may impose conditions on the approval of a Resource Overlay - Alternative Review application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.70.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93

Commentary: Section 40.90 Tree Plan

The proposed changes to the Tree Plan section would exempt pruning, removal, replacement, or mitigation of any trees or other vegetation within the Cooper Mountain Community Plan area which are subject to the Cooper Mountain - Tree Applications of Section 40.91 instead of the Tree Plan applications of this Section. These activities would potentially be subject to Tree Applications - Cooper Mountain of Section 40.91 or the Resource Overlay applications of Section 40.70.

40.90. Tree Plan

[ORD 4348; May 2005]

[ORD 3740, 08/21/1990; ORD 4224, 09/19/2002]

40.90.05. Purpose.

Healthy trees and urban forests provide a variety of natural resource and community benefits for the City of Beaverton. Primary among those benefits is the aesthetic contribution to the increasingly urban landscape. Tree resource protection focuses on the aesthetic benefits of the resource. The purpose of a Tree Plan application is to provide a mechanism to regulate pruning, removal, replacement, and mitigation for removal of Protected Trees (Significant Individual Trees, Historic Trees, trees within Significant Groves and Significant Natural Resource Areas (SNRAs)), and Community Trees thus helping to preserve and enhance the sustainability of the City’s urban forest. This Section is carried out by the approval criteria listed herein and implements the SNRA, Significant Grove, Significant Individual Tree, and Historic Tree designations as noted or mapped in Comprehensive Plan Volume III.

[ORD 3740, 08/21/1990; ORD 4224, 09/19/2002; ORD 4348, 05/19/2005]

Effective on: 6/1/2012

40.90.10. Applicability.

Different types of resources require different levels of protection. No Tree Plan is required for the following actions:

1. Removal of up to four (4) Community Trees, or up to 10% of the number of Community Trees on the site, whichever is greater, within a one (1) calendar year period. Properties one-half acre or less in size developed with a detached dwelling or middle housing may remove any number of Community Trees. [ORD 4822; June 2022]
2. Removal and pruning of any hazardous, dead, or diseased tree when the tree is identified as such by a certified arborist or by the City Arborist and the removal is required by the City.
3. In the event of an emergency requiring tree removal or pruning prior to the City Arborist's determination, if evidence justifies the emergency removal after the fact, then no tree plan is required for removal.
4. Minor pruning, as defined in [CHAPTER 90](#).
5. Pruning of trees consistent with the Vision Clearance requirements of the Engineering Design Manual. [ORD 4397; August 2006]
6. Pruning of trees by the utility provider for above ground utility power lines following acceptable arboricultural standards and practices.
7. Pruning of trees to maintain the minimum 8 foot clearance above a sidewalk.
8. Removal or pruning of the following nuisance tree species anywhere in the city: Lombardy Poplar (*Populus nigra*), and birch (*Betula sp.*). Where Lombardy Poplar or birch trees are part of an approved landscape plan, Design Review approval is required for the removal of the Landscape Trees. [ORD 4584; June 2012]
9. Removal and pruning of the following nuisance tree species in Significant Groves and SNRAs: Norway maple (*Acer platanooides*), Tree-of-Heaven (*Ailanthus altissima*), Golden Chain Tree (*Laburnum watereri*), and English or Common Hawthorn (*Crataegus monogyna*). [ORD 4584; June 2012]
10. Removal of a tree or nonnative vegetation listed as a Nuisance or Prohibited Plant on the City of Portland's Nuisance Plant List or in Clean Water Services' Design and Construction Standards. [ORD 4822; June 2022]
11. Within SNRAs and Significant Groves, planting of native vegetation listed on the Metro's Native Plant List or in Clean Water Services' Design and Construction Standards when planted with non-mechanized hand held equipment.
12. Removal of any tree associated with a public street and sidewalk improvement project that meet A. or B. and C: [ORD 4659; June 2015] [ORD 4697; December 2016]
 - A. Improvements within an existing public vehicular right-of-way; or
 - B. Improvements to a public vehicular right-of-way in order to meet functional classification standards, such as widening or half-street improvements; and
 - C. The proposed improvements do not exceed the minimum width standards of the Engineering Design Manual.
13. Trails within SNRAs and Significant Groves meeting all of the following:
 - A. Construction must take place between May 1 and October 30 with hand held equipment;
 - B. Trail widths must not exceed 30 inches and trail grade must not exceed 20 percent;
 - C. Trail construction must leave no scars greater than three inches in diameter on live parts of native plants; and
 - D. Trails must be placed outside the top of bank of any stream, river, or pond, and
 - E. Trails must be 100% pervious.
14. Street Trees are covered by the Beaverton Municipal Code and Section [60.15.15.6](#).
15. Landscape Trees are covered by Section [40.20](#). (Design Review) and Section [60.60](#). (Trees and Vegetation).

16. Enhancement activities conducted by a public agency for the sole purpose of improving the ecological health of forest and water resources.
17. Removal of a tree(s) by the City of Beaverton or Clean Water Services that is within five (5) feet of a section of existing sanitary or storm sewer line that is in need of emergency repair and/or maintenance within a SNRA when no reasonable alternative exists. [ORD 4397; August 2006]
18. Pruning, removal, replacement, or mitigation of any trees or other vegetation within the Cooper Mountain Community Plan area which are subject to the Tree Applications - Cooper Mountain applications of Section 40.91 or the Resource Overlay applications of Section 40.70.

[ORD 3740, 08/21/1990; ORD 4224, 09/19/2002; ORD 4348, 05/19/2005; ORD 4397, 08/10/2006; ORD 4584, 06/01/2012; ORD 4659, 07/10/2015; ORD 4697, 12/02/2016; ORD 4822, 06/30/2022]

Effective on: 6/30/2022

40.90.15. Application.

There are three (3) Tree Plan applications which are as follows: Tree Plan One, Tree Plan Two, and Tree Plan Three. [ORD 4782; April 2020]

1. Tree Plan One.

- A. Threshold. An application for Tree Plan One shall be required when none of the actions listed in Section 40.90.10 apply and one or more of the following thresholds apply:
 1. Major pruning of Protected Trees once within a one year period.
 2. Mechanized removal of non-native or invasive vegetation and clearing and grubbing of vegetation within SNRAs, Significant Groves, or Sensitive Areas as defined by Clean Water Services.
 3. Mechanized re-planting of trees and shrubs, or both, or restoration planting within SNRAs, Significant Groves, or Sensitive Areas as defined by Clean Water Services.
 4. Trails greater than 30 inches in width, or trail grade exceeding 20 percent, trail surfaces less than 100% pervious surface, or any combination thereof within SNRAs, Significant Groves, or Sensitive Areas as defined by Clean Water Services that do not result in tree removal.
- B. Procedure Type. The Type 1 procedure, as described in Section 50.35. of this Code, shall apply to an application for Tree Plan One. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Tree Plan One application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
 1. The proposal satisfies the threshold requirements for a Tree Plan One application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1. of the Development Code. [ORD 4265; September 2003]
 4. If applicable, pruning is necessary to improve tree health or to eliminate conflicts with vehicles or structures which includes, but is not limited to, underground utilities and street improvements.
 5. If applicable, the removal of vegetation or clearing and grubbing is necessary to accommodate physical development in the area in which the removal is proposed.
 6. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

- D. Submission Requirements. An application for a Tree Plan One shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Tree Plan One application shall be accompanied by the information required by the application form, and by Section 50.25. (Application Completeness), and any other information identified through a Pre-Application Conference.
 - E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Tree Plan One application to ensure compliance with the approval criteria. In addition to the approval criteria, the decision making authority may also impose other conditions of approval to ensure that the proposed tree work meets all requirements listed in Section 60.60. (Trees and Vegetation).
 - F. Appeal of a Decision. Refer to Section 50.60.
 - G. Expiration of a Decision. Refer to Section 50.90.
 - H. Extension of a Decision. Previous approval of Tree Plan One proposal shall not be extended.
2. **Tree Plan Two**
- A. Threshold. An application for Tree Plan Two shall be required when none of the actions listed in Section 40.90.10. apply, none of the thresholds listed in Section 40.90.15.1. apply, and one or more of the following thresholds apply:
 - 1. Removal of five (5) or more Community Trees, or more than 10% of the number of Community Trees on the site, whichever is greater, within a one (1) calendar year period, except as allowed in Section 40.90.10.1. [ORD 4584; June 2012]
 - 2. Multiple Use zoning district: Removal of up to and including 85% of the total DBH of non-exempt surveyed tree(s) found on the project site within SNRAs, Significant Groves, or Sensitive Areas as defined by Clean Water Services. [ORD 4584; June 2012]
 - 3. Commercial, Residential, or Industrial zoning district: Removal of up to and including 75% of the total DBH of non-exempt surveyed tree(s) found on the project site within SNRAs, Significant Groves, or Sensitive Areas as defined by Clean Water Services. [ORD 4584; June 2012]
 - 4. Removal of a Significant Individual Tree(s).
 - B. Procedure Type. The Type 2 procedure, as described in Section 50.40. of this Code, shall apply to an application for Tree Plan Two. The decision making authority is the Director.
 - C. Approval Criteria. In order to approve a Tree Plan Two application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
 - 1. The proposal satisfies the threshold requirements for a Tree Plan Two application.
 - 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 - 3. If applicable, removal of any tree is necessary to observe good forestry practices according to recognized American National Standards Institute (ANSI) A300-1995 standards and International Society of Arborists (ISA) standards on the subject.
 - 4. If applicable, removal of any tree is necessary to accommodate physical development where no reasonable alternative exists.
 - 5. If applicable, removal of any tree is necessary because it has become a nuisance by virtue of damage to property or improvements, either public or private, on the subject site or adjacent sites.

6. If applicable, removal is necessary to accomplish public purposes, such as installation of public utilities, street widening, and similar needs, where no reasonable alternative exists without significantly increasing public costs or reducing safety.
7. If applicable, removal of any tree is necessary to enhance the health of the tree, grove, SNRA, or adjacent trees, or to eliminate conflicts with structures or vehicles. [ORD 4584; June 2012]
8. If applicable, removal of a tree(s) within a SNRA or Significant Grove will not result in a reversal of the original determination that the SNRA or Significant Grove is significant based on criteria used in making the original significance determination.
9. If applicable, removal of a tree(s) within a SNRA or Significant Grove will not result in the remaining trees posing a safety hazard due to the effects of windthrow.
10. The proposal is consistent with all applicable provisions of Section 60.60. (Trees and Vegetation) and Section 60.67. (Significant Natural Resources).
11. Grading and contouring of the site is designed to accommodate the proposed use and to mitigate adverse effects on neighboring properties, public right-of-way, surface drainage, water storage facilities, and the public storm drainage system. [ORD 4584; June 2012]
12. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1. of the Development Code.
13. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

[ORD 4404; October 2006] [ORD 4462; January 2008]

- D. Submission Requirements. An application for a Tree Plan Two shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Tree Plan Two application shall be accompanied by the information required by the application form, and by Section 50.25. (Application Completeness), and any other information identified through a Pre-Application Conference.
 - E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Tree Plan Two application to ensure compliance with the approval criteria. In addition to the approval criteria, the decision making authority may also impose other conditions of approval to ensure that the proposed tree work meets all requirements listed in Section 60.60. (Trees and Vegetation).
 - F. Appeal of a Decision. Refer to Section 50.65.
 - G. Expiration of a Decision. Refer to Section 50.90.
 - H. Extension of a Decision. Previous approval of Tree Plan Two proposal shall not be extended.
3. **Tree Plan Three**
- A. Threshold. An application for Tree Plan Three shall be required when none of the actions listed in Section 40.90.10. or none of the thresholds listed in Section 40.90.15.1. or Section 40.90.15.2. apply and one or more of the following thresholds apply: [ORD 4782; April 2020]
 1. Multiple Use zoning districts: Removal of greater than 85% of the total DBH of Non-Exempt Surveyed Tree(s) found on the project site within SNRAs, Significant Groves, or Sensitive Areas as defined by Clean Water Services. [ORD 4584; June 2012]
 2. Residential, Commercial, and Industrial zoning districts: Removal of greater than 75% of the total DBH of Non-Exempt Surveyed Tree(s) found on the project site within SNRAs, Significant Groves, or Sensitive Areas as defined by Clean Water Services. [ORD 4584; June 2012]
 3. Removal of individual Historic Trees.

- B. Procedure Type. The Type 3 procedure, as described in Section 50.45. of this Code, shall apply to an application for Tree Plan Three. The decision making authority shall be the Planning Commission. [ORD 4532; April 2010]
- C. Approval Criteria. In order to approve a Tree Plan Three application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Tree Plan Three application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. If applicable, removal of a diseased tree or a tree is necessary because the tree has been weakened by age, storm, fire, or other condition.
 4. If applicable, removal is necessary to enhance the health of the grove or adjacent tree(s) to reduce maintenance, or to eliminate conflicts with structures or vehicles.
 5. If applicable, removal is necessary to observe good forestry practices according to recognized American National Standards Institute (ANSI) A300-1995 standards and International Society of Arborists (ISA) standards on the subject.
 6. If applicable, removal is the minimum necessary to accommodate physical development because no reasonable alternative exists for the development at another location on the site and variances to setback provisions of the Development Code will not allow the tree(s) to be saved or will cause other undesirable circumstances on the site or adjacent properties.
 7. If applicable, removal is necessary because a tree has become a nuisance by virtue of damage to personal property or improvements, either public or private, on the subject site or on an adjacent site.
 8. If applicable, removal is necessary to accomplish a public purpose, such as installation of public utilities, street widening, and similar needs where no reasonable alternative exists without significantly increasing public costs or reducing safety.
 9. If applicable, removal of a tree(s) within a SNRA or Significant Grove will not result in the remaining trees posing a safety hazard due to the effects of windthrow.
 10. If applicable, removal of tree or trees within a Significant Grove will not reduce the size of the grove to a point where the remaining trees may pose a safety hazard due to the effects of windthrow.
 11. If applicable, removal of a tree within a Historic Grove will not substantially reduce the significance of the grove in terms of its original designation on the list of Historic Groves.
 12. The proposal is consistent with all applicable provisions of Section 60.60. (Trees and Vegetation) and Section 60.67. (Significant Natural Resources).
 13. Grading and contouring of the site is designed to accommodate the proposed use and to mitigate adverse effect(s) on neighboring properties, public right-of-way, surface drainage, water storage facilities, and the public storm drainage system.
 14. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1. of the Development Code.
 15. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- [ORD 4404; October 2006]
- D. Submission Requirements. An application for a Tree Plan Three shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Tree Plan Three application shall be accompanied by the information required by the application

form, and by Section 50.25. (Application Completeness), any other information identified through a Pre-Application Conference, and by a report from a qualified professional.

- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Tree Plan Three application to ensure compliance with the approval criteria. In addition to the approval criteria, the decision making authority may also impose other conditions of approval to ensure that the proposed tree work meets all requirements listed in Section 60.60. (Trees and Vegetation).
- F. Compliance with Approval. All conditions imposed on an approved Tree Plan Three shall be implemented prior to the removal, pruning, or planting of tree unless otherwise noted in the approval. Compliance with the conditions of approval shall be met as long as the trees exist unless otherwise specified or until modified through a City approval process.
- G. Appeal of a Decision. Refer to Section 50.70.
- H. Expiration of a Decision. Refer to Section 50.90.
- I. Extension of a Decision. Previous approval of Tree Plan Three proposal shall not be extended.

[ORD 4697; December 2016]

[ORD 3740, 08/21/1990; ORD 3830, 10/28/1992; ORD 3838, 02/09/1993; ORD 4071, 11/25/1999; ORD 4224, 09/19/2002; ORD 4238, 02/27/2003; ORD 4265, 10/09/2003; ORD 4348, 05/19/2005; ORD 4404, 10/19/2006; ORD 4462, 01/10/2008; ORD 4532, 04/01/2010; ORD 4584, 06/01/2012; ORD 4697, 12/02/2016; ORD 4782, 04/17/2020]

Effective on: 4/17/2020

Commentary: Section 40.91: Tree Applications - Cooper Mountain

This new section is for tree applications inside the Cooper Mountain Community Plan area only. The commentary boxes preceding each application provide additional information on when each application applies. There are five tree applications for the Cooper Mountain area.

40.91. Tree Applications – Cooper Mountain

40.91.05. Purpose.

This Section provides a permitting mechanism within the Cooper Mountain Community Plan area for regulating the removal and replacement of trees that are not associated with Initial Development activity and are, therefore, not subject to the tree preservation or tree canopy requirements of Sections 60.61.15 through 60.61.30. This Section also establishes Cooper Mountain Tree Plan applications for tree removal, preservation, and planting associated with Initial Development and for modifications of a previously approved Cooper Mountain Tree Plans prior to completion of Development.

40.91.10. Applicability.

Tree Applications - Cooper Mountain are not required for the following types of tree removal:

1. Removal of any tree outside of the protected portion of the Resource Overlay on a lot less than 3,500 square feet developed with an existing Single-Detached or Middle Housing residential use or a small-scale commercial use;
2. Removal of Nuisance Trees on the City of Beaverton Tree List;
3. Removal of any tree within the Resource Overlay that is either exempt pursuant to Section 60.37.25 or subject to the Resource Overlay - Development application of Section 40.70.15.1;

4. Removal of any tree less than 6-inch DBH, unless the tree was included as a part of an approved Cooper Mountain Tree Plan and is being removed prior to issuance of final occupancy or final inspection approval for a Development;
5. Removal of Agricultural Trees;
6. Removal of trees blocking a Sight Clearance Area for an intersection, including driveways; or
7. Removal of tree species that cannot typically attain a mature height of at least 16 feet as they are not considered trees for the purposes of this Code.

Commentary: Section 40.91.15.1-2 Cooper Mountain Tree Removal One and Two

Cooper Mountain Tree Removal One and Two applications evaluate tree removal proposals outside of Initial Development (Chapter 90 defines Initial Development). For example, these applications will apply to a residential property owner that proposes to remove one or more trees, unless the removal is exempt from these applications by Section 40.91.10 above.

Cooper Mountain Tree Removal One. Creates a clear and objective path for tree removal for situations such as removing dead trees, hazardous trees, or a certain number of trees per year based on lot size. Replanting is required with the Cooper Mountain Tree Removal One application.

Cooper Mountain Tree Removal Two. Creates a discretionary path for other tree removal situations, such as removing a higher number of healthy trees from a site based on lot size. Replanting is required, but paying a fee in-lieu of planting is available for the Cooper Mountain Tree Removal Two application.

40.91.15. Applications.

There are five Tree Applications - Cooper Mountain for the Cooper Mountain Community Plan area.

1. Cooper Mountain Tree Removal One.

A. Threshold. An application for Cooper Mountain Tree Removal One shall be required when none of the exemptions in Section 40.91.10 apply and one or more of the following thresholds apply:

1. Removal of one or more Dead Trees.
2. Removal of one or more Hazardous Trees.
3. Removal of one 6-inch DBH tree or larger, per 5,000 square feet of lot or tract area, per calendar year. In calculating the number of trees allowed for removal, a fraction shall be rounded down to the nearest whole number.

B. Procedure Type. The Type 1 procedure, as described in Section 50.35. of this Code, shall apply to Cooper Mountain Tree Removal One. The decision-making authority is the Director.

C. Approval Criteria. To approve a Cooper Mountain Tree Removal One application, the decision-making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

1. The proposal satisfies the threshold requirements for a Cooper Mountain Tree Removal One application.
2. All City application fees related to the application under consideration by the decision-making authority have been submitted.
3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code.
4. Tree replacement is proposed consistent with the replanting ratio required by Section 60.61.40.2.A (Tree Replacement and Maintenance Standards).

5. Proposed tree replacement is consistent with the replanting requirements of Section 60.61.40.2.C through G (Tree Replacement and Maintenance Standards).

6. For the removal of Dead or Hazardous Trees, a report prepared by an Arborist certified in International Society of Arboriculture (ISA) Tree Risk Assessment Qualification (TRAQ) techniques demonstrates that the tree(s) proposed for removal are Dead or Hazardous, consistent with Chapter 90 (Definitions).

7. If an Arborist certified in ISA TRAQ techniques determines that one or more trees pose an imminent threat to public health, safety, or welfare, the subject tree(s) may be removed, and the Cooper Mountain Tree Removal One application shall be processed retroactively. The burden of proof is on the applicant to demonstrate that the tree(s) presented an imminent threat prior to removal.

8. The proposal is consistent with all applicable provisions of Chapter 60 (Special Requirements).

D. Submission Requirements. An application for a Cooper Mountain Tree Removal One shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Cooper Mountain Tree Removal One application shall be accompanied by the information required by the application form, by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference. If a tree has sustained physical damage caused by activity in violation of Section 60.61 which has caused the tree to die or become hazardous, applicable penalties shall be satisfied prior to or concurrently with submittal of this application.

E. Conditions of Approval. The decision-making authority may impose conditions on the approval of a Cooper Mountain Tree Removal One application to ensure compliance with the approval criteria. Tree replacement consistent with the Cooper Mountain Tree Removal One approval shall be completed within one year.

F. Appeal of a Decision. Refer to Section 50.60.

G. Expiration of a Decision. Refer to Section 50.90.

H. Extension of a Decision. Refer to Section 50.93.

2. Cooper Mountain Tree Removal Two.

A. Threshold. An application for Cooper Mountain Tree Removal Two shall be required when none of the exemptions in Section 40.91.10 apply and one or more of the following thresholds apply:

1. Removal of more than one 6-inch DBH tree or larger, per 5,000 square feet of lot or tract area, per calendar year.
2. Any non-exempt tree removal for which fee-in-lieu is proposed for any amount of required tree replacement consistent with Section 60.61.40.

B. Procedure Type. The Type 2 procedure, as described in Section 50.40. of this Code, shall apply to a Cooper Mountain Tree Removal Two application. The decision-making authority is the Director.

C. Approval Criteria. To approve a Cooper Mountain Tree Removal Two application, the decision-making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

1. The proposal satisfies the threshold requirements for a Cooper Mountain Tree Removal Two application.
2. All City application fees related to the application under consideration by the decision-making authority have been submitted.
3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code.
4. Tree replacement is proposed consistent with one of the following options:
 - a. Replanting is consistent with the ratio required by Section 60.61.40.2.A (Tree Replacement and Maintenance Standards); or

- b. Tree replacement required by Section 60.61.40.2.A is proposed to be provided in part or in full through payment of an in-lieu fee consistent with Section 60.61.40.2.B (Tree Replacement and Maintenance Standards). A report prepared by a Certified Arborist demonstrates that replanting to the required ratio is not feasible or practical on the subject property or site. Payment of the applicable in-lieu fee has been submitted.
 - 5. Excluding fee-in-lieu replacement, proposed tree replacement is consistent with the replanting requirements of Section 60.61.40.2.C through G (Tree Replacement and Maintenance Standards).
 - 6. The proposal is consistent with all applicable provisions of Chapter 60 (Special Requirements).
- D. Submission Requirements. An application for a Cooper Mountain Tree Removal Two shall be made by the owner of the subject property, or the owner’s authorized agent, on a form provided by the Director and shall be filed with the Director. The Cooper Mountain Tree Removal Two application shall be accompanied by the information required by the application form, by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision-making authority may impose conditions on the approval of a Cooper Mountain Tree Removal Two application to ensure compliance with the approval criteria. Tree replacement consistent with the Cooper Mountain Tree Removal Two approval shall be completed within one year.
- F. Appeal of a Decision. Refer to Section 50.65.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

Commentary: 40.91.15.3-5 Cooper Mountain Tree Plan One, Two and Three

Cooper Mountain Tree Plan One provides a clear and objective pathway for Initial Developments that meet Minimum Tree Preservation Standards or Minimum Tree Canopy Standards, or modifications to previously approved plans that will be consistent with Minimum Tree Preservation Standards or Minimum Tree Canopy Standards. Modifications to previously approved plans are useful for changes that occur during the construction of a project such as if tree health declines significantly or the species to be planted needs to be changed. This is likely to occur during multi-year and multi-phased development projects.

Cooper Mountain Tree Plan Two provides a discretionary pathway for Initial Development when an applicant chooses to meet the Minimum Tree Preservation Guidelines or Type 2 Minimum Tree Canopy Guidelines. This application also considers modifications to previously approved Cooper Mountain Tree Plan Two or Three applications when the tree preservation changes are consistent with the Minimum Tree Preservation Guidelines or the Type 2 Minimum Tree Canopy Guidelines. Modifications to the Tree Canopy approach of a Cooper Mountain Tree Plan Three will also be considered through this Type 2 application as long as the changes result in the same amount of Tree Canopy or more than the existing approval.

Cooper Mountain Tree Plan Three provides a discretionary pathway for Initial Development when an applicant chooses to meet the Type 3 Minimum Tree Canopy Guidelines. If an applicant wishes to modify an existing Cooper Mountain Tree Plan Three approval in a way that reduces the amount of Tree Canopy on the site, this is considered a new Type 3 application and, therefore, requires Planning Commission approval.

3. Cooper Mountain Tree Plan One.

A. Threshold. An application for Cooper Mountain Tree Plan One shall be required when one of the following thresholds apply:

1. Initial Development of a site in accordance with Section 60.61.15 (Minimum Tree Preservation Standards) and Section 60.61.20 (Minimum Tree Canopy Standards).
2. One or more modifications to an existing Cooper Mountain Tree Plan One, Cooper Mountain Tree Plan Two, or Cooper Mountain Tree Plan Three approval prior to issuance of final occupancy or acceptance of final inspection for the associated Initial Development when:
 - a. Modification(s) are consistent with Section 60.61.15 (Minimum Tree Preservation Standards), as applicable;
or
 - b. Modification(s) are consistent with Section 60.61.20 (Minimum Tree Canopy Standards), as applicable.

B. Procedure Type. The Type 1 procedure, as described in Section 50.35. of this Code, shall apply to a Cooper Mountain Tree Plan One application. The decision-making authority is the Director.

C. Approval Criteria. To approve a Cooper Mountain Tree Plan One application, the decision-making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

1. The proposal satisfies the threshold requirements for a Cooper Mountain Tree Plan One application.
2. All City application fees related to the application under consideration by the decision-making authority have been submitted.
3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code.
4. A report prepared by a Certified Arborist demonstrates that the proposed Cooper Mountain Tree Plan One is consistent with the Minimum Tree Preservation Standards of Section 60.61.15 and the Minimum Tree Canopy Standards of Section 60.61.20.
5. For modification(s) to an approved Cooper Mountain Tree Plan, a report prepared by a Certified Arborist demonstrates that proposed tree preservation modification(s) are consistent with the Minimum Tree Preservation Standards of Section 60.61.15.
6. For modification(s) to an approved Cooper Mountain Tree Plan, a report prepared by a Certified Arborist demonstrates that proposed Tree Canopy modification(s) are consistent with the Minimum Tree Canopy Standards of Section 60.61.20.
7. The proposal is consistent with the tree protection, tree planting, and soil volume requirements of Section 60.61.35 (Technical Specifications for Tree Protection and Planting).
8. The proposal is consistent with all applicable provisions of Chapter 60 (Special Requirements).

D. Submission Requirements. An application for a Cooper Mountain Tree Plan One shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Cooper Mountain Tree Plan One application shall be accompanied by the information required by the application form, by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.

E. Conditions of Approval. The decision-making authority may impose conditions on the approval of a Cooper Mountain Tree Plan One application to ensure compliance with the approval criteria.

F. Appeal of a Decision. Refer to Section 50.60.

G. Expiration of a Decision. Refer to Section 50.90.

H. Extension of a Decision. Refer to Section 50.93.

4. Cooper Mountain Tree Plan Two.

A. Threshold. An application for Cooper Mountain Tree Plan Two shall be required when one or more of the following thresholds apply:

1. Initial Development of a site in accordance with Section 60.61 when the project addresses the Minimum Tree Preservation Guidelines of Section 60.61.25 or the Type 2 Minimum Tree Canopy Guidelines of Section 60.61.30.1.
2. One or more modifications to an approved Cooper Mountain Tree Plan Two or Cooper Mountain Tree Plan Three prior to issuance of final occupancy or acceptance of final inspection for the associated Initial Development when:
 - a. Modification(s) are consistent with Section 60.61.25 (Minimum Tree Preservation Guidelines);
 - b. Modification(s) are consistent with Section 60.61.30.1 (Minimum Tree Canopy Guidelines Type 2); or
 - c. Modification(s) to an existing Cooper Mountain Tree Plan Three approval are consistent with Section 60.61.30.2 (Minimum Tree Canopy Guidelines Type 3).

B. Procedure Type. The Type 2 procedure, as described in Section 50.40. of this Code, shall apply to a Cooper Mountain Tree Plan Two application. The decision-making authority is the Director.

C. Approval Criteria. To approve a Cooper Mountain Tree Plan Two application, the decision-making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

1. The proposal satisfies the threshold requirements for a Cooper Mountain Tree Plan Two application.
2. All City application fees related to the application under consideration by the decision-making authority have been submitted.
3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code.
4. A report prepared by a Certified Arborist demonstrates that the proposed Cooper Mountain Tree Plan Two or modification(s) to an approved Cooper Mountain Tree Plan Two or Three will provide tree preservation on the site consistent with either the Minimum Tree Preservation Standards of Section 60.61.15 or the Type 2 Minimum Tree Preservation Guidelines of Section 60.61.25.
5. A report prepared by a Certified Arborist demonstrates that the proposed Cooper Mountain Tree Plan Two or modification(s) to an approved Cooper Mountain Tree Plan Two will provide Tree Canopy on the site consistent with either the Minimum Tree Canopy Standards of Section 60.61.20 or the Type 2 Minimum Tree Canopy Guidelines of Section 60.61.30.1.
6. For modification(s) to an approved Cooper Mountain Tree Plan Three, a report prepared by a Certified Arborist demonstrates that the proposed Tree Canopy modification(s) are consistent with the Type 3 Minimum Tree Canopy Guidelines of Section 60.61.30.2 and do not cause the Tree Canopy percentage on the site to be reduced below the percentage of the Cooper Mountain Tree Plan Three approval proposed for modification.
7. The proposal is consistent with the tree protection, tree planting, and soil volume requirements of Section 60.61.35 (Technical Specifications for Tree Protection and Planting).
8. The proposal is consistent with all applicable provisions of Chapter 60 (Special Requirements).

D. Submission Requirements. An application for Cooper Mountain Tree Plan Two shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Cooper Mountain Tree Plan Two application shall be accompanied by the information required by the application form, by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.

E. Conditions of Approval. The decision-making authority may impose conditions on the approval of a Cooper Mountain Tree Plan Two application to ensure compliance with the approval criteria.

F. Appeal of a Decision. Refer to Section 50.70.

G. Expiration of a Decision. Refer to Section 50.90.

H. Extension of a Decision. Refer to Section 50.93.

5. Cooper Mountain Tree Plan Three.

A. Threshold. An application for Cooper Mountain Tree Plan Three shall be required when the following threshold applies:

1. Initial Development of a site in accordance with Section 60.61 when the project addresses the Type 3 Minimum Tree Canopy Guidelines of Section 60.61.30.2.

B. Procedure Type. The Type 3 procedure, as described in Section 50.45. of this Code, shall apply to a Cooper Mountain Tree Plan Three application. The decision-making authority is the Planning Commission.

C. Approval Criteria. To approve a Cooper Mountain Tree Plan Three application, the decision-making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

1. The proposal satisfies the threshold requirement for a Cooper Mountain Tree Plan Three application.
2. All City application fees related to the application under consideration by the decision-making authority have been submitted.
3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code.
4. A report prepared by a Certified Arborist demonstrates that the proposed Cooper Mountain Tree Plan Three provides tree preservation on the site consistent with either the Minimum Tree Preservation Standards of Section 60.61.15 or the Minimum Tree Preservation Guidelines of Section 60.61.25.
5. A report prepared by a Certified Arborist demonstrates that the proposed Cooper Mountain Tree Plan Three provides Tree Canopy on the site consistent with the Type 3 Minimum Tree Canopy Guidelines of Section 60.61.30.2.
6. The proposal is consistent with the tree protection, tree planting, and soil volume requirements of Section 60.61.35 (Technical Specifications for Tree Protection and Planting).
7. The proposal is consistent with all applicable provisions of Chapter 60 (Special Requirements).

D. Submission Requirements. An application for Cooper Mountain Tree Plan Three shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Cooper Mountain Tree Plan Three application shall be accompanied by the information required by the application form, by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.

E. Conditions of Approval. The decision-making authority may impose conditions on the approval of a Cooper Mountain Tree Plan Three application to ensure compliance with the approval criteria.

F. Appeal of a Decision. Refer to Section 50.70.

G. Expiration of a Decision. Refer to Section 50.90.

H. Extension of a Decision. Refer to Section 50.93.

Commentary

The Tualatin Hills Park and Recreation District Annexation Waiver application is proposed for deletion because the park district provides park and recreation services to the entire city and the Cooper Mountain code was drafted with the intention that Community Parks and Neighborhood Parks in the parks overlay will become THPRD facilities. This will ensure Cooper Mountain residents and community members visiting the area will enjoy the same park and recreation services as the rest of the city.

~~40.93. Tualatin Hills Park and Recreation District Annexation Waiver~~

~~{ORD 4388; May 2006}~~

~~{ORD 4388, 05/18/2006}~~

~~40.93.05. Purpose:~~

~~The purpose of this section is to provide for the application of a Tualatin Hills Park and Recreation annexation waiver, which allows a waiver from the requirement to annex property into the Tualatin Hills Park and Recreation District as a condition of approval of any development as specified in Section 60.33 of the Development Code. {ORD 4584; June 2012}~~

~~{ORD 4388, 05/18/2006; ORD 4584, 06/01/2012}~~

~~Effective on: 6/1/2012~~

~~40.93.10. Applicability:~~

~~A THPRD annexation waiver may only be requested by the property owner(s) for any development proposed outside of THPRD boundaries who wish to provide their own park and recreation facilities and services rather than annex the site to THPRD.~~

~~{ORD 4388, 05/18/2006}~~

~~Effective on: 5/18/2006~~

~~40.93.15. Application:~~

~~There is a single THPRD annexation waiver application which is subject to the following requirements.~~

~~1. THPRD Annexation Waiver.~~

~~A. Threshold. An application for a THPRD annexation waiver shall be required when the following threshold applies:~~

~~1. The property proposed for development is not in the Tualatin Hills Park and Recreation District (THPRD) and the applicant wishes to provide park and recreation facilities and services for the development rather than annex the site to THPRD.~~

~~B. Procedure Type. The Type 3 procedure, as described in Section 50.45. of this Code, shall apply to an application for a THPRD annexation waiver.~~

~~C. Approval Criteria. In order to approve a THPRD annexation waiver application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:~~

- ~~1. The proposal satisfies the threshold requirements for a THPRD annexation-waiver application.~~
 - ~~2. All City application fees related to the application under consideration by the decision-making authority have been submitted.~~
 - ~~3. Detailed plans and documentation demonstrating compliance with Section 60.33.15. Park facilities shall be deemed similar if provided for the projected number of future residents and/or employees of the proposed development at cost, quality and services levels equal to or greater than the minimum set for the core park system in the THPRD Comprehensive Master Plan. Improvements within provided park facilities shall be deemed similar if at least two of the following are provided: a tennis court, a basketball court, a swimming pool, or a children's play structure; and at least one of the following is also provided: a baseball/softball field, a soccer field, or a community/recreation center. Recreation services shall be deemed similar if provided for future residents or employees of the proposed development at cost, quality and service levels equal to or greater than the minimum set for such services in the THPRD Comprehensive Master Plan and is consistent with applicable provisions within an adopted Community Plan. [ORD 4652; March 2015]~~
 - ~~4. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.~~
- ~~D. Submission Requirements. An application for a THPRD annexation-waiver shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The application shall be accompanied by the information required by the application form, and by Section 50.25. (Application Completeness), and any other information identified through a Pre-Application Conference.~~
- ~~E. Conditions of Approval. The decision-making authority may impose conditions on the approval of a THPRD annexation-waiver application to ensure compliance with the approval criteria.~~
- ~~F. Appeal of a Decision. Refer to Section 50.70.~~
- ~~G. Expiration of a Decision. Refer to Section 50.90.~~

~~[ORD 4388, 05/18/2006; ORD 4652, 03/06/2015]~~

~~Effective on: 3/6/2015~~

Commentary: Section 40.96 Wireless Facility

The proposed changes to the Wireless Facility application would add references to the Cooper Mountain Zoning Districts section.

40.96. Wireless Facility

[ORD 4332; January 2005]

[ORD 4332, 01/01/2005]

40.96.05. Purpose.

The purpose of the wireless facility application is to ensure the review and implementation of the regulations for the construction and use of wireless communication facilities in the City of Beaverton. The section is consistent with FCC Declaratory Rulings and current federal laws, and is intended to minimize potential adverse visual, aesthetic, and safety impacts of wireless communication facilities on residential neighborhoods, and on the community as a whole by establishing review standards for the use, placement, and design of wireless communication facilities. This Section is carried out by the approval criteria listed herein.

[ORD 4332, 01/01/2005; ORD 4595, 02/08/2013]

Effective on: 2/8/2013

40.96.10. Applicability.

The development, installation, and modification of wireless facilities listed in [CHAPTER 20](#) (Zoning Districts) or Section [70.15](#) (Downtown Zoning and Streets) if the site is located within the Downtown Design District, for each zoning district shall be subject to the provisions of this section. [ORD 4799; January 2021] [ORD 4804; August 2021]

[ORD 4332, 01/01/2005; ORD 4799, 01/08/2021; ORD 4804, 08/13/2021]

Effective on: 8/13/2021

40.96.15. Application.

There are three (3) Wireless Facility applications which are as follows: Wireless Facility One, Wireless Facility Two, and Wireless Facility Three.

1. **Wireless Facility One.**

- A. **Threshold.** An application for Wireless Facility One shall be required when one or more of the following thresholds apply:
1. In any zoning district, replacement of transmission equipment (antennas) or a collocation of a wireless communication facility on an existing tower or structure approved as a wireless facility that does not constitute a substantial change in size of the tower and is an eligible facility request as defined by federal law. [ORD 4804; August 2021]
 2. In any zoning district, attachment of a new wireless communication facility to existing or new buildings or structures that are not exclusively used for single-detached residential or multi-dwelling residential purposes, and that utilize stealth design. [ORD 4822; June 2022]
 3. In any zoning district, attachment of wireless communications facilities to existing structures, tower structures or pole structures that constitute a substantial change in size of the tower and is an eligible facilities request as defined by federal law that meets the height standard of the zoning district. [ORD 4804; August 2021]
 4. In industrial, multiple use, or commercial zoning districts, direct-to-home satellite service having antennas greater than one (1) meter in diameter.
 5. In industrial, multiple use, or commercial zoning districts, installation of up to and including two (2) ground or building roof-mounted satellite antennas greater than two meters in size.
 6. In any zoning district, installation of one (1) replacement tower for an existing tower approved to support one (1) carrier where the replacement tower will accommodate collocation opportunity while remaining consistent with previous land use approvals. [ORD 4804; August 2021]

7. In any zoning district, attachment of antennas to tower structures or pole structures other than those used for cellular phone service, street lights or traffic signals.
8. In any zoning district, installation of new ground or roof equipment to an existing wireless communication facility or base station.

[ORD 4595; February 2013]

- B. Procedure Type. The Type 1 procedure, as described in Section 50.35. of this Code, shall apply to an application for Wireless Facility One. The decision making authority is the Director.
 - C. Approval Criteria. In order to approve a Wireless Facility One application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
 1. The proposal satisfies the threshold requirements for a Wireless Facility One application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code.
 4. The proposal meets all applicable Site Development Requirements of Sections 20.05., 20.10., 20.15., 20.20, 20.22, and Section 70.15 of the Development Code unless the applicable provisions are subject to an Adjustment, Planned Unit Development, or Variance application which shall be already approved or considered concurrently with the subject proposal. [ORD 4584; June 2012] [ORD 4595; February 2013] [ORD 4799; January 2021] [ORD 4804; August 2021]
 5. The proposal complies with all applicable provisions in CHAPTER 60 (Special RequirementsRegulations).
 6. The proposal is an "eligible facilities request" that does not substantially change the physical dimensions of such tower or base station. [ORD 4595; February 2013]
 7. The proposal does not conflict with any existing City approval, except the City may modify prior approvals through the WCF process to comply with federal, state and local laws. [ORD 4595; February 2013]
 8. The proposal is not on or within any right-of-way. [ORD 4702; January 2017]
 9. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
 - D. Submission Requirements. An application for a Wireless Facility One shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Wireless Facility One application shall be accompanied by the information required by the application form, by Section 60.70.50 (Required Studies and Information) and by Section 50.25. (Application Completeness), and any other information identified through a Pre-Application Conference. [ORD 4702; January 2017]
 - E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Wireless Facility One application to ensure compliance with the approval criteria.
 - F. Time Limit for Decision. Refer to Section 50.35 [ORD 4595; February 2013]
 - G. Appeal of a Decision. Refer to Section 50.60.
 - H. Expiration of a Decision. Refer to Section 50.90.
 - I. Extension of a Decision. Refer to Section 50.93.
2. **Wireless Facility Two.**

- A. Threshold. An application for Wireless Facility Two shall be required when one or more of the following thresholds apply:
1. In all industrial zoning districts, construction of a new wireless communication facility tower proposed to be set back at least fifty (50) feet from abutting residential or multiple use zoning districts.
 2. In residential zoning districts, direct-to-home satellite service having antennas greater than one (1) meter in diameter.
 3. In industrial zoning districts, attachment of a wireless communication facility to an existing or new building or structure, other than an existing tower or base station, not utilizing stealth design.
 4. In industrial, multiple use, or commercial zoning districts, installation of three (3) and up to five (5) ground or building roof-mounted satellite antennas greater than two (2) meters in size.
 5. In any zoning district, the collocation of a new wireless communication facility on an existing tower which the size of the tower constitutes as a substantial change as defined by federal law that exceeds height standards of the zoning district. [ORD 4804; August 2021]
- [ORD 4595; February 2013]
- B. Procedure Type. The Type 2 procedure, as described in Section 50.40. of this Code, shall apply to an application for Wireless Facility Two. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Wireless Facility Two application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Wireless Facility Two application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The size, dimensions, configuration, and topography of the site and natural and man-made features on the site can reasonably accommodate the proposal.
 4. The proposal will not obstruct any existing or approved vehicular, pedestrian, or bicycle connection identified in the Comprehensive Plan.
 5. That the development has been designed to, where possible, incorporate and preserve existing trees and vegetation of significant size and species.
 6. That grading of the site shall take place with particular attention to minimizing the possible adverse effect of grading on the natural vegetation and physical appearance of the site.
 7. That the quality, location, size and aesthetic design of walls, fences, berms, hedges, screen planting and landscape areas have minimal adverse effect on existing or approved abutting land uses.
 8. All critical facilities and services related to the development have, or can be improved to have, adequate capacity to serve the proposal at the time of its completion.
 9. The proposal is consistent with all applicable Site Development Requirements of Sections 20.05., 20.10., 20.15., 20.20, 20.22, and Section 70.15 of the Development Code unless the applicable provisions are subject to an Adjustment, Planned Unit Development, or Variance which shall be already approved or considered concurrently with the subject proposal. [ORD 4584; June 2012] [ORD 4595; February 2013] [ORD 4799; January 2021] [ORD 4804; August 2021]
 10. The proposal is consistent with all applicable provisions of CHAPTER 60 (Special Requirements) and that all improvements, dedications, or both required by the applicable provisions of CHAPTER 60 (Special Requirements) are provided or can be provided in rough proportion to the identified impact(s) of the proposal.

11. The proposal does not conflict with any existing City approval, except the City may modify prior approvals through the WCF process to comply with federal laws. [ORD 4595; February 2013]
12. The proposal is not on or within any right-of-way. [ORD 4804; August 2021]
13. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1. of the Development Code.
14. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

[ORD 4404; October 2006]

- D. Submission Requirements. An application for a Wireless Facility Two shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Wireless Facility Two application shall be accompanied by the information required by the application form, by Section 60.70.50 (Required Studies and Information) and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference. [ORD 4702; January 2017]
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Wireless Facility Two application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.70.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

3. **Wireless Facility Three.**

- A. Threshold. An application for Wireless Facility Three shall be required when the following threshold applies:
 1. In all zoning districts, except industrial, construction of a wireless communication facility tower.
 2. In Industrial zoning districts, construction of a wireless communication facility tower proposed to be set back less than fifty (50) feet from abutting residential, or multiple use zoning districts.
 3. In any zoning districts except Industrial, attachment of a new wireless communication facility to an existing or new building or structure that does not utilize stealth design.
 4. In industrial, multiple use, or commercial zoning districts, more than five (5) satellite antennas greater than two (2) meters in diameter on one (1) lot.

[ORD 4595; February 2013]

- B. Procedure Type. The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to an application for Wireless Facility Three. The decision making authority is the Planning Commission.
- C. Approval Criteria. In order to approve a Wireless Facility Three application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
 1. The proposal satisfies the threshold requirements for a Wireless Facility Three application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. In relationship to the existing surroundings and future allowed uses, the location, size, shape, height, spatial and visual arrangement of the use and structure is compatible.
 4. The size, dimensions, configuration, and topography of the site and natural and man-made features on the site can reasonably accommodate the proposal.

5. The proposal will not obstruct any existing or approved vehicular, pedestrian, or bicycle connection identified in the Comprehensive Plan.
6. That the development has been designed to, where possible, incorporate and preserve existing trees and vegetation of significant size and species.
7. That grading of the site shall take place with particular attention to minimizing the possible adverse effect of grading on the natural vegetation and physical appearance of the site.
8. That the quality, location, size and aesthetic design of walls, fences, berms, hedges, screen planting and landscape areas have minimal adverse effect on existing or approved abutting land uses.
9. All critical facilities and services related to the development have, or can be improved to have, adequate capacity to serve the proposal at the time of its completion.
10. The proposal is consistent with all applicable Site Development Requirements of Sections 20.05., 20.10., 20.15., 20.20, 20.22, and Section 70.15 of the Development Code unless the applicable provisions are subject to an Adjustment, Planned Unit Development, or Variance which shall be already approved or considered concurrently with the subject proposal. [ORD 4584; June 2012] [ORD 4595; February 2013] [ORD 4799; January 2021] [ORD 4804; August 2021]
11. The proposal is consistent with all applicable provisions of CHAPTER 60 (Special Requirements) and that all improvements, dedications, or both required by the applicable provisions of CHAPTER 60 (Special Requirements) are provided or can be provided in rough proportion to the identified impact(s) of the proposal.
12. The proposal does not conflict with any existing City approval, except the City may modify prior approvals through the WCF process to comply with federal, laws. [ORD 4595; February 2013]
13. The proposal is not on or within any right-of-way. [ORD 4804; August 2021]
14. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code.
15. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

[ORD 4404; October 2006]

- D. Submission Requirements. An application for a Wireless Facility Three shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Wireless Facility Three application shall be accompanied by the information required by the application form, by Section 60.70.50 (Required Studies and Information) and by Section 50.25. (Application Completeness) and any other information identified through a Pre-Application Conference. [ORD 4702; January 2017]
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Wireless Facility Three application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.70.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

[ORD 4332, 01/01/2005; ORD 4404, 10/19/2006; ORD 4584, 06/01/2012; ORD 4595, 02/08/2013; ORD 4702, 01/04/2017; ORD 4799, 01/08/2021; ORD 4804, 08/13/2021; ORD 4822, 06/30/2022]

Effective on: 6/30/2022