

Amendments to the Albany Development Code (ADC)

*Draft code amendments are written as follows: additions **bold red underlined** and deletions in ~~strike-out~~. Sections not amended are omitted unless needed for context. Omitted sections are indicated by asterisks: ****

**ARTICLE 11
LAND DIVISIONS AND PLANNED DEVELOPMENTS**

Commentary:

With the exception of the Cluster Development section, proposed amendments to Article 11 are limited to updating cross-references, updating terminology for review procedures, and renumbering tables and figures consistent with the new numbering protocol. Proposed amendments to the Cluster Development section are noted in the commentary for that section.

11.000 Overview. The most permanent feature of a community is the way land is divided into parcels. This article describes the process of converting raw land into building sites. The primary goals of this design review are to better ensure that natural features have been taken into account; that roads and utilities are properly designed and installed, and that adequate open space has been provided. This article establishes the standards and procedures for property line adjustments, partitions, subdivisions, planned developments, and condominiums.

The following is a list of the main headings in this article.

- General Provisions
- Lot and Block Arrangement
- Property Line Adjustments
- Subdivisions and Partitions
- Planned Developments
- Condominiums
- Cluster Development

[Ord. 5668, 4/11/07]

GENERAL PROVISIONS

11.040 Pre-application Conference. A pre-application conference, in accordance with Section ~~1.202~~**1.130**, is required prior to submittal of an application for any land division. A pre-application conference is not mandatory for property line adjustments.

11.050 Acceptance of Application. The Director will review the application for compliance with established application requirements within thirty (30) working days. If the application is found to be incomplete, the Director will notify the applicant of the reasons, and advise the applicant of the requirements for an acceptable application.

11.060 Expiration Dates. See Section ~~4.080~~**1.310** for expiration of land division appeals. [Ord. 5768, 12/7/11]

11.065 Recording Final Plats. Once city approval is granted for a final plat, it must be recorded with the Linn or Benton County Records Division.

[Ord. 5475, 4/11/2001; Ord. 5768, 12/7/11, Ord. 5886, 1/6/17]

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- 11.080 Subsequent Land Divisions and Property Line Adjustments. No subsequent land division or property line adjustment may be approved on the same lot or parcel until the previously approved land division or property line adjustment has been filed and recorded, or the previous approval is withdrawn or otherwise invalidated.

LOT AND BLOCK ARRANGEMENT

- 11.090 Lot and Block Arrangements. In any single-family residential land division, lots and blocks shall conform to the following standards in this Article and other applicable provisions of this Code:
- (1) Lot arrangement must be such that there will be no foreseeable difficulties, for reason of topography or other condition, in securing building permits to build on all lots in compliance with the requirements of this Code with the exception of lots designated Open Space.
 - (2) Lot dimensions must comply with the minimum standards of this Code. When lots are more than double the minimum area designated by the zoning district, those lots must be arranged so as to allow further subdivision and the opening of future streets where it would be necessary to serve potential lots. An urban conversion plan may be required in conjunction with submittal of tentative subdivision or partition plat.
 - (3) Double frontage lots shall be avoided except when necessary to provide separation of residential developments from streets of collector and arterial street status or to overcome specific disadvantages of topography and/or orientation. When driveway access from arterials is necessary for several adjoining lots, those lots must be served by a combined access driveway in order to limit possible traffic hazards on such streets. The driveway should be designed and arranged so as to avoid requiring vehicles to back into traffic on arterials. An access control strip shall be placed along all lots abutting arterial streets requiring access onto the lesser class street where possible.
 - (4) Side yards of a lot shall run at right angles to the street the property faces, except that on a curved street the side property line shall be radial to the curve.
 - (5) Block dimensions shall be determined by existing street and development patterns, connectivity needs, topography, and adequate lot size. The average block length shall not exceed 600 feet unless adjacent layout or physical conditions justify a greater length. Block length is defined as the distance along a street between the centerline of two intersecting through streets (Figure 11.090-1). Physical conditions may include existing development, steep slopes, wetlands, creeks, and mature tree groves.

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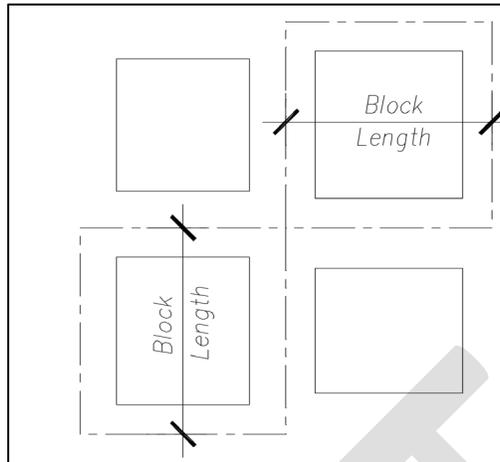


FIGURE 11.090-1. Block Length

- (6) Off-street pedestrian pathways shall be connected to the street network and used to provide pedestrian and bicycle access in situations where a public street connection is not feasible.
- (7) The recommended minimum distance between arterial street intersections is 1800 feet. In order to provide for adequate street connectivity and respect the needs for access management along arterial streets, the Community Development Director/City Engineer may require either a right-in/right-out public street connection or public access connection to the arterial in lieu of a full public street connection. When a right-in/right-out street connection is provided, turning movements shall be defined and limited by raised medians to preclude inappropriate turning movements.
- (8) The minimum frontage of a lot on a cul-de-sac shall be 22 feet as measured perpendicular to the radius.
[Ord. 5886, 1/6/17]
- (9) Flag lots are allowed only when absolutely necessary to provide adequate access to buildable sites and only where the dedication and improvement of a public street is determined by the City Engineer to be not feasible or not practical. The minimum width for a flag is 22 feet, except when access is shared by an access and maintenance agreement in which case each lot shall have a minimum width of 12 feet and a combined minimum of 24 feet.
[Ord. 5886, 1/6/17]
- (10) At all street intersections, an arc along the property lines shall be established so that construction of the street at maximum allowable width, centered in the right-of-way, shall require not less than a twenty-foot radius of the curb line.
[Ord. 5445, 4/12/00; Ord. 5912, 7/11/18]

SUBDIVISIONS AND PARTITIONS

- 11.200 Appeal of a Tentative Plat Decision. A decision to approve, approve with conditions, or deny a tentative subdivision or partition plat is a limited land use decision that may be appealed ~~to the Land Use Board of Appeals~~ **in accordance with the appeal procedures in Article 1**. ~~At the Director's discretion the decision may be referred to the Planning Commission.~~

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PLANNED DEVELOPMENTS

11.270 Permitted Buildings and Uses. The following buildings and uses are permitted individually or in combination in a planned development:

- (1) Residential areas:
 - (a) Accessory buildings and uses (permitted in combination with principal uses only);
 - (b) Duplexes;
 - (c) Dwellings, multiple-family;
 - (d) Dwellings, single-family;
 - (e) Open space;
 - (f) Parks, playgrounds, golf courses, driving ranges, community centers, or recreation facilities supported by the planned development; and
 - (g) Commercial services to primarily serve the Residential Planned Development.
- (2) Industrial areas:
 - (a) Any use allowed outright through ~~site plan review~~ **Site Plan Review**, or by ~~conditional use~~ **Conditional Use** approval in the underlying zone is permitted. Uses specified as conditional uses in the underlying zone are limited to 25 percent of the site except that additional amounts may be approved through the ~~conditional use~~ **Conditional Use** process.
 - (b) Up to 25 percent of the total site area may be occupied by retail and service establishments not otherwise permitted within industrial districts provided that at least an equal area of the development has been previously or simultaneously developed for other permitted uses.
 - (c) Up to 25 percent of the total site area may be occupied by office uses not pertinent to industrial uses within the development or otherwise permitted within the underlying zoning district.
 - (d) Office uses, services, and other accessory uses totally supported by other permitted uses are allowed in addition to the percentage amounts specified above.

11.300 Application Contents. A planned development proposal is reviewed in two stages. The following information is required to be submitted with each stage: [Ord. 5832, 4/9/14]

- (1) Preliminary planned development submittal requirements:
 - (a) Planned Development Program. A written statement outlining the following details: planning objectives to be achieved through the planned development; dwelling types and density; non-residential uses; lot layout; public and private access; parking; height of structures; lighting; landscaped areas and provisions for continued maintenance; water supply; sewage disposal; drainage; and areas devoted to various uses. This statement should include a description of the character of the proposed development and adjacent areas, discussion of how the proposed development will relate to the natural environment and significant natural resources of the site and adjacent areas.
 - (b) The location of existing and planned water, sewerage, and drainage facilities, including line

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sizes and how they will tie into existing facilities.

- (c) The location of all existing and planned sidewalks, pedestrian paths, bike paths and where they will connect with existing facilities.
- (d) The location and utilization of land uses and structures including public and/or private parks, open space or common areas.
- (e) A tabulation of land area to be devoted to each use, and a calculation of the average residential density per acre, if applicable.
- (f) A boundary survey or a certified boundary description by a licensed surveyor.
- (g) Data, drawings, and/or elevations clearly establishing the scale, character and relationship of buildings, streets, and open space.
- (h) Detailed building and landscaping plans and elevations.
- (i) A transportation impact analysis, where required by the City Engineering Division of the Public Works Department.
- (j) A development schedule for commencement and of construction, or a phasing schedule if phased development is proposed.
- (k) If the development will be divided into different ownerships, any additional information generally required for a land division tentative plat approval and not required above.
- (l) Other applicable ~~site plan review~~ **Site Plan Review** information in Section 2.490(5).

[Ord. 5832, 4/09/14; Ord. 5842, 1/01/15]

Interim submittal requirement repealed per Ord. 5832, 4/09/14.

- (2) Final submittal requirements in addition to the information on the approved preliminary plan:
 - (a) The character and location of signs.
 - (b) Plans for street improvements and grading or earth-moving plans.
 - (c) Any additional requirements of final land division submittal, if the land is to be divided.

[Ord. 5832, 4/09/14]

11.310 Preliminary Plan Submittal Review Criteria. A planned development request will be granted interim approval by the review body if the development meets the Site Plan Review criteria of Section 2.450, **Section 2.455 (if applicable)**, and all of the following applicable criteria:

- (1) The increased flexibility in Code standards and permitted uses will result in an improved development for the City, the surrounding area, and users of the development as compared to strict compliance with Code provisions.
- (2) The project design results in a more efficient provision of open space or utilization of the natural features of the site.
- (3) The project design results in a more efficient utilization of materials and public resources including streets, utilities, and energy supplies.
- (4) Provisions will be established to ensure the continued maintenance of any common areas.
- (5) More usable and suitable recreational facilities and other common areas are provided than would normally be provided under conventional development standards.
- (6) The planned development satisfies the development standards in Section 11.330.

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[Ord. 5832, 4/9/14]

- 11.320 Conditions of Approval. The City may attach conditions of approval of a planned development to ensure that the proposal will conform to the applicable review criteria.
- 11.325 Phasing Planned Developments. The applicant may provide for development of the project in phases. Each phase shall provide a proportionate share of the development facilities and amenities as approved. See Section 1.080-~~310~~**310** for land use approval time periods. [Ord. 5832, 4/9/14]
- 11.330 Planned Development Standards. In conjunction with standard requirements for setbacks and landscaped areas, the following standards apply to planned developments:
- (1) Open Space and Common Areas in Residential, Mixed-Use and other Non-Industrial Planned Developments. Open space or common areas shall be provided for common enjoyment. In all residential developments and mixed-use developments, 25 percent of the gross land area shall be devoted to open space, outdoor living area or common areas as follows.
 - (a) Land that may be counted towards the open space requirement includes:
 - Natural resources accessible to the public;
 - Common recreational space or commonly enjoyed amenities accessible to residents, including indoor or rooftop amenities – the total square footage of indoor amenities will be subtracted from the total land area; and
 - Common landscaped areas and paths but excluding sidewalks and planter strips in the right-of-way.
 - (b) Locations, shapes, sizes and other characteristics of open spaces shall be consistent with their proposed uses and the purposes of the planned development.
 - (c) Land in the right-of-way may not count towards the open space requirement unless designed with larger planter strips to allow for mature trees, a multi-use path, or a landscaped median.
 - (d) Side and rear yards may not count towards the minimum open space requirements.
 - (e) Outdoor open space or living areas required by this Article may be dedicated to the City provided the size and amount of the proposed dedication meets the criteria of the City for neighborhood parks by one-half and if the City agrees to accept the dedication. The square footage of land dedicated for public parks shall be deemed a part of the development site for the purpose of computing density.
 - (f) Approved vegetated post-construction stormwater quality facilities are allowed in open space, outdoor living area and common areas. [Ord. 5832, 4/09/14; Ord. 5842, 1/01/15]
 - (2) Natural Resources. The planned development shall provide for the protection of significant landscape features including Oak groves, heritage trees as defined by the Albany Municipal Code and land located within Albany’s natural resource overlay districts and any historic sites and landmarks. Natural and cultural resources shall integrate the proposed development with the environmental characteristics of the site and adjacent uses. [Ord. 5832, 4/9/14]
 - (3) Underground Utilities. In any planned development, all electric and telephone facilities, fire alarm conduits, street light wiring, and other wiring, conduits and similar facilities shall be placed underground by the developer, unless allowed above ground by the review body.
 - (4) Density. When calculating density of a proposed planned development, the gross area including streets and park land dedications shall be included, except for land in the Significant Wetland and

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Waterway overlay district. The maximum density permitted per zoning district is outlined in Table 11.**330**-1 below.

TABLE 11.330**-1. Maximum density permitted per zoning district.**

	RS-10	RS-6.5	RS-5	RM	RMA	OS
Maximum dwelling units per acre	4	6	8	25	35	1*

*Allows 1 residential unit per existing lot

[Ord. 5801, 2/13/13; Ord. 5832, 4/9/14]

- (5) Building Spacing and Yard Requirements. The plan shall provide adequate building separation to allow for light, ventilation, and visual and acoustic privacy for residences and other structures. Fences, insulation, walks, barriers, and landscaping shall be used, as appropriate, for the protection and aesthetic enhancement of property and the privacy of its occupants, screening of objectionable views, and reduction of noise. [Ord. 5832, 4/9/14]
- (6) Building Locations. Taller buildings shall be located within the planned development in such a way as to avoid adverse impact on neighboring lower buildings and shall not invade the privacy of the occupants of adjacent lower buildings. [Ord. 5832, 4/9/14]
- (7) Perimeter Compatibility. The plan shall minimize adverse impacts of proposed uses and structures in the planned development on existing and anticipated uses and structures on adjacent properties and neighborhoods. The buffering and screening standards in Sections 9.210-9270 apply. If topographical or other physical barriers do not provide reasonable privacy and mitigation of potential adverse impacts on existing uses adjacent to the development, the development shall provide additional setbacks, buffering or screening between residential and non-residential uses. [Ord. 5832, 4/9/14]

CONDOMINIUMS

- 11.380 Definition. A condominium is a building, or group of buildings, in which units are individually owned, and the structure, common areas and facilities are owned by all of the unit owners on a proportional, undivided basis.
- 11.390 Procedure. A proposal for new construction of a condominium is reviewed through the planned development process. A proposal for conversion of existing units into condominiums is reviewed through the ~~conditional use~~ **Conditional Use** process in conjunction with planned development requirements. All condominium proposals must meet the appropriate requirements of ORS Chapter 100.

Commentary: Cluster Development

Proposed amendments to the cluster development standards—specifically Section 11.460 Designation of Permanent Natural Areas—are intended to prioritize preservation of Oregon White Oaks throughout the city, not just in South Albany, and provide more specificity for measurements.

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CLUSTER DEVELOPMENT

11.400 Purpose. Cluster development is intended to protect and/or restore natural and other special features in the development of a site. In return, the more flexible standards found in this section may supersede other stricter standards of this Code. Cluster developments may provide greater flexibility, reduced and/or varied lot sizes, and more variety in permitted uses. Residential density may be transferred within the development in exchange for restoring degraded or marginal quality resources located in a Significant Natural Resource overlay district or for protecting natural or other special features of the site. Developments must satisfy high-quality master planning and design requirements.

[Ord. 5923, 2/8/19]

11.405 Optional Nature. Cluster development is an optional form of development. Cluster development proposals are reviewed as part of the land division, site plan, or ~~conditional use~~ **Conditional Use** application processes.

11.420 Relationship to Other Regulations. If the applicant chooses the cluster development option, and the site is deemed eligible by the City, these standards will supplement other provisions of this Code. For example, a subdivision proposed as a cluster development is also subject to other provisions of Article 11 of the Development Code. Other types of residential development are subject to ~~site plan review~~ **Site Plan Review** or ~~conditional use~~ **Conditional Use** review. These provisions apply to issuance of building permits in a cluster development and to ongoing uses and activities in a cluster development.[Ord. 5562, 10/10/03; Ord. 5668, 4/11/07]

11.460 Designation of Permanent Natural Area. The required natural area may be public or private. The minimum 20 percent of the gross acreage of the development site set aside as natural area in a cluster development should be designated in the following priority order:

- (1) The first priority for natural area designation is significant tree groves identified on the South Albany Area Plan Organizational Framework map in the Comprehensive Plan (Figure 1), and **Oregon White Oak (Quercus garryana)** oak trees **citywide** in the South Albany Area Plan ~~boundary over~~ **equal to or greater than six and one-half feet in circumference (approximately 25-inches in diameter)** measured ~~at 4.5 feet from the ground~~ **as defined in Article 9.203(4). For individual trees, the natural area boundary is defined as the critical root zone (as defined in Article 9.203(1)) plus a ten-foot buffer.** [Ord. 5801, 2/13/13]
- (2) The second priority for natural area designation is natural resources within the Significant Natural Resource overlay districts that are of degraded or marginal quality and subsequently restored to good quality in accordance with the quality levels in ADC Section 6.410(5). This priority shall be satisfied in the following order:
 - (a) Habitat for western painted and northwestern pond turtles within the Habitat Assessment Overlay (/HA), as identified by a turtle habitat assessment, that is restored to good quality.
 - (b) Wetland within the Significant Wetland overlay district (/SW) that is restored to good quality.
 - (c) Riparian area within the Riparian Corridor overlay district (/RC) that is restored to good quality.
- (3) The third priority for natural area designation is protection of other environmentally sensitive areas, natural and scenic features of the site. This priority shall be satisfied in the following order:

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- (a) Good quality habitat for western painted and northwestern pond turtles near Thornton Lakes within the Habitat Assessment overlay (/HA) as identified by a turtle habitat assessment.
 - (b) Good quality wetland within the Significant Wetland overlay district (/SW).
 - (c) Good quality riparian area within the Riparian Corridor overlay district (/RC).
 - (d) Other wetlands not within the Significant Wetland overlay district, as shown on the City's Local Wetland Inventories, or by a delineation approved by the Oregon Department of State Lands.
 - (e) Existing channels identified in the most current version of the City of Albany Storm Water Master Plan.
 - (f) Springs.
 - (g) Land with natural slopes 12 percent or greater as designated by the Hillside Development overlay district (/HD).
 - (h) Wooded area with five or more healthy trees over **25 inches in circumference (approximately 8 inches in diameter) measured as defined in Article 9.203(4)**, ~~measured 4½ feet from the ground,~~ if approved by the City Forester.
 - (i) Land that provides bike or walking trails that connect to existing or proposed parks or trails, inventoried natural features, or areas zoned Open Space; or areas otherwise protected as permanent natural areas.
 - (j) Incorporate public parks, trails, trailheads or open space designated in the Parks, Recreation and Open Space Plan, the North Albany Refinement Plan, and the South Albany Area Plan. [Ord. 5801, 2/13/13]
 - (k) Other features of the site unique to Albany, if approved by the Director.
- (4) The fourth priority for natural area designation is to create "open spaces" in and around neighborhoods. This priority is satisfied by any of the following:
- (a) Continuity of adjacent open space corridors or parkways.
 - (b) A network of interconnected open space corridors.
 - (c) A buffer between neighborhoods.

11.490 Permitted Uses. The uses allowed within cluster developments outside the permanent natural areas are determined by the underlying zoning district standards in Section 3.050, with the following exceptions:

- (1) On development sites greater than 20 acres, up to 20 percent of the housing units in RS-6.5 and RS-10 may be attached single-family or condominium housing.
- (2) On development sites greater than 50 acres, up to two acres may be developed with neighborhood commercial uses through a ~~conditional use~~ **Conditional Use** review. The maximum building footprint of commercial or office uses shall be 3,000 square feet. Commercial and office uses shall be limited to restaurants with no drive-through service, and convenience-oriented and personal service-oriented uses as described in Article 22.
- (3) Within the South Albany Area Plan boundary, attached single-family and duplexes will be permitted in the RS-5, RS-6.5 and RS-10 zoning districts for up to 25 percent of the total units provided when transferring density within the Oak Creek Transition Area or when transferring density of the area necessary to preserve significant tree groves identified on the South Albany Area Plan Organizational Framework map in the Comprehensive Plan (Figure 1), and oak trees over 25-inches in diameter measured at 4.5 feet from the ground. Developments may not exceed the maximum density by zoning

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district in 11.495 and must meet all applicable standards in the Code. [Ord. 5801, 2/13/13]

11.495 Development Standards. In a cluster development, the following development standards in Table 11.~~495-1-2~~ supersede the same standards in Section 3.190, Table ~~3.190-1~~. The number of allowable dwelling units is based on the maximum density for the zone as specified in the following table. [Ord. 5923, 2/8/19]

TABLE 11.~~495-1-2~~. Allowable dwelling units in density ranges per zone.

Standard	RS-10	RS-6.5	RS-5	RM	RMA
Max. dwelling units per gross acre	4	6	8	25	35
Minimum Lot Size (1)	None	None	None	None	None
Minimum Lot Width	None	None	None	None	None
Minimum Lot Depth	None	None	None	None	None
Minimum front setback (2)	15 ft.	10 ft.	10 ft.	10 ft.	10 ft.
Maximum Lot Coverage (3)	70%	70%	70%	70%	75%

- (1) Lots on the perimeter of the cluster development shall meet the standards in 11.500.
- (2) Except, when lots are adjacent to existing development on the same side of the street, the setback shall be within 5 feet of the adjacent house(s) setback(s).
- (3) The maximum lot coverage may be up to 100 percent for lots that provide land only for the building footprint. [Ord. 5801, 2/13/13]

11.510 Permitted Uses. The uses allowed within cluster developments outside the permanent natural areas are determined by the underlying zoning district standards in Section 3.050, with the following exceptions:

- (1) On development sites greater than 20 acres, up to 20 percent of the housing units in RS-6.5 and RS-10 may be attached single-family or condominium housing.
- (2) On development sites greater than 50 acres, up to 2 acres may be developed with neighborhood commercial uses through a ~~conditional use~~ **Conditional Use** review. The maximum building footprint of commercial or office uses shall be 3,000 square feet. Commercial and office uses shall be limited to restaurants with no drive-through service, and convenience-oriented and personal service-oriented uses as described in Article 22. [Ord. 5562, 10/10/03; Ord. 5668, 4/11/07]
