

DETAILED TABLE OF CONTENTS

CHAPTER 18 CLUSTER DEVELOPMENT

<u>SECTION</u>		<u>PAGE</u>
18.010	PURPOSE	18-1
18.020	DEFINITIONS	18-1
18.030	CLUSTER DEVELOPMENT PRELIMINARY DEVELOPMENT PLAN APPROVAL	18-2
18.040	DEVELOPMENT STANDARDS FOR PRELIMINARY DEVELOPMENT PLAN	18-4
18.050	MINIMUM SITE SIZE	18-4
18.060	FINDINGS	18-5
18.070	RESIDENTIAL DENSITY	18-5
18.080	BUILDING SPACING	18-6
18.090	DEDICATED OPEN SPACE	18-6
18.100	ENVIRONMENTAL DESIGN STANDARDS	18-8
18.110	TRAFFIC CIRCULATION	18-8
18.120	PERIMETER DESIGN	18-9
18.130	DEVELOPMENT PHASING	18-9
18.140	DURATION OF CLUSTER DEVELOPMENT PRELIMINARY DEVELOPMENT PLAN APPROVAL	18-10
18.150	CLUSTER DEVELOPMENT FINAL DEVELOPMENT PLAN APPROVAL	18-10
18.160	EXPIRATION OF FINAL DEVELOPMENT PLAN APPROVAL	18-12
18.170	AMENDMENTS TO APPROVED PRELIMINARY AND FINAL DEVELOPMENT PLANS	18-13

CHAPTER 18 CLUSTER DEVELOPMENT (GMA Only)

SECTION 18.010 Purpose

The purposes of the Cluster Development are to provide a means of creating harmonious planned environments through the application of flexible and diversified land development standards; to encourage the application of new development techniques and technology which will result in superior living or development arrangements; to promote the efficient use of land to facilitate more economic provision of housing, circulation systems, utilities and their maintenance; to promote energy conservation and use of renewable energy resources; to preserve to the greatest extent possible significant landscape features and to utilize such features in a harmonious fashion; and to provide for more usable and suitably located open space and recreation facilities than would otherwise be provided under conventional land development procedures.

SECTION 18.020 Definitions

The following definitions apply only to this chapter:

Gross Acreage: The acreage of the entire Cluster Development, less the acreage devoted to streets, public or semi-public buildings, kindergarten or day-care centers, and commercial uses.

Homeowners' Association: A nonprofit corporation, membership in which is mandatory for owners of Cluster Development residences, and which is responsible for maintaining common open space and private streets.

Landscape Features: Natural features of the Cluster Development site, including waterways, wetlands, rock outcroppings, forest areas and significant wildlife habitat areas.

Net Acreage: The acreage of the Cluster Development devoted to residential use, including residential building sites, private open space and driveways.

Dedicated Open Space: Undeveloped land not covered by buildings or structures, except minor recreational structures, and protected permanently. Open Space does not include streets, driveways, parking lots, or loading areas.

Common Open Space: open space reserved primarily for the leisure and recreational use of all Cluster Development residents, and owned and maintained in common by them through a homeowner's association.

Private Open Space: open space located immediately adjacent to an individual dwelling unit, owned and maintained by the owners of the dwelling unit, and reserved exclusively for the use of the residents of the dwelling unit.

Public Open Space: open space designed primarily for use by residents of a Cluster Development, dedicated in fee to a public agency, and maintained by the agency.

SECTION 18.030 Cluster Development Preliminary Development Plan Approval

Approval of a Cluster Development preliminary development plan is a development request subject to 2.050(B) of this Ordinance.

- A. An application for a Cluster Development preliminary development plan approval shall be initiated as provided in Chapter 2 of this ordinance.
- B. The Cluster Development preliminary development plan shall consist of the following:
 1. Written documents
 - a. A legal description of the total site proposed for development, including a statement of present and proposed ownership and present and proposed zoning.
 - b. The names and addresses of all owners of adjacent property.
 - c. A statement of planning objectives to be achieved by the Cluster Development through the particular approach proposed by the applicant. 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 landscape features of the site and adjacent areas, and the rationale behind the assumptions and choices made by the applicant.
 - d. A development schedule indicating the approximate date when construction of the Cluster Development or stages of the Cluster Development can be expected to begin and be completed.
 - e. A statement of the applicant's intentions with regard to the future selling or leasing of all or portions of the Cluster Development, such as land areas, dwelling units, etc.
 - f. If common open space is to be deeded to a Homeowners' Association, a declaration of covenants and restrictions that will govern the Association.
 - g. Quantitative data for the following: total number and type of dwelling units;

parcel sizes; proposed lot coverage of buildings and structures; approximate gross and net residential acreages; total amount of open space; amounts of private, common and public open space; total area and types of non-residential construction; economic feasibility studies or market analysis where necessary.

2. Site Plan and Supporting Maps

A site plan and any maps necessary to show the major details of the proposed Cluster Development, containing the following information in addition to that information required by 14.020(B) of this Ordinance:

- a. The existing site conditions, including contours at five (5) foot intervals, water courses, floodplains and other areas subject to natural hazards, significant landscape features, and forest cover.
- b. Proposed lot lines and layout design.
- c. The location and floor area size of all existing and proposed buildings, structures, and other improvements, including maximum heights, types of dwelling units, and non-residential structures, including commercial facilities.
- d. The location and size in acres or square feet of all areas to be conveyed, dedicated, or reserved as common or public open spaces or recreational areas, school sites, and similar public and semi-public uses.
- e. The existing and proposed circulation system of arterial, collector, and local streets, including off-street parking areas, service areas, loading areas, and major points of access to public rights-of-way. Notations of proposed ownership, public or private, should be included where appropriate.
- f. The existing and proposed pedestrian circulation system, including its interrelationships with the vehicular circulation system indicating proposed treatments of points of conflict.
- g. The existing and proposed systems for providing sewage disposal, water, electricity, gas, fire protection and telephone services.
- h. A general schematic landscape plan indicating the technique and materials to be used for private, common and public open spaces.
- i. A preliminary subdivision or partition plan if the land is to be divided.
- j. Information on land areas adjacent to the proposed Cluster Development,

including land uses, zoning classifications, densities, circulating systems, public facilities, and significant landscape features, to show the relationships between the proposed development and the adjacent areas.

- k. The proposed treatment of the perimeter of the Cluster Development, including materials and techniques to be used, such as screens, fences and walls.
3. The Approving Authority shall decide on the Cluster Development preliminary development plan application as provided in Chapter 2 of this Ordinance; and shall approve the preliminary development plan if it finds:
 - a. The proposed Cluster Development is consistent with applicable Comprehensive Plan and the Management Plan for the Columbia River Gorge National Scenic Area goals, policies and map designations, and with the purpose set forth in Section 18.010.
 - b. The preliminary development plan meets the development standards of Section 18.040 to Section 18.120.
 - c. If the preliminary development plan provides for phased development, pursuant to Section 18.130 of this chapter, that each phase meets the standard of 18.130(C) and that the applicant has the capability to obtain final development plan approval in the time limits imposed.
 - d. Any conditions or modifications imposed by the Approving Authority on the preliminary development plan approval are necessary to meet the requirements of Section 18.040 to Section 18.120, to further the purposes of Section 18.010, or to comply with the Comprehensive Plan or the Management Plan for the Columbia River Gorge National Scenic Area.

SECTION 18.040 Development Standards for Preliminary Development Plan

A Cluster Development preliminary development plan must meet the Development Standards in Section 18.050 through 18.120 of this Chapter.

SECTION 18.050 Minimum Site Size

The Cluster Development site must be of such a size that at least two (2) dwelling units would be permitted by the underlying district.

SECTION 18.060 Findings

Findings to justify the approval of a cluster development must demonstrate that the cluster development will provide a siting opportunity not available through conventional parcel-by-parcel development. These opportunities include siting the new dwellings to:

- A. Be located In areas with screening vegetation or other features which reduce visibility of development as seen from Key Viewing Areas; or
- B. To avoid significant landscape features; or
- C. Protect the existing character of the landscape setting; or
- D. To reduce interference with movement of deer or elk in areas of inventoried winter range; or
- E. To avoid areas of known cultural resources; or
- F. To consolidate road access, septic drainfields or other development features in order to reduce impacts associated with grading or ground disturbance; or
- G. To reduce adverse effects to riparian areas, wetlands, natural areas, rare plants, sensitive wildlife sites or other natural resources; or
- H. To increase the likelihood of agricultural or forest management on the undeveloped land left by the cluster development.

SECTION 18.070 Residential Density

- A. In the GMA, a cluster development may create up to 25 percent more parcels than otherwise allowed by the minimum parcel size on lands designated 5-acre Residential or 10-acre Residential and up to 50 percent more on lands designated Small-Scale Agriculture or Small Woodland. Any division in a cluster development under this guideline may create at least one additional parcel.
- B. No lot or parcel in a cluster development may be smaller than 1 acre in a 5-Acre or 10-Acre Residential designation or 2 acres in a Small-Scale Agriculture or Small Woodland designation.
- C. In the GMA, following cluster development, there may be no further division of any resulting parcel for residential purposes until the subject parcel is included within the boundary of an Urban Area.

SECTION 18.080 Building Spacing

- A. A preliminary development plan shall provide for reasonable 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.
- B. If the Approving Authority finds it necessary to meet the perimeter design standards of Section 18.120, it may require a special setback from all or a portion of the perimeter of the Cluster Development.

SECTION 18.090 Dedicated Open Space

- A. At least seventy-five percent (75%) of the gross acreage of the Cluster Development must be dedicated open space. At least twenty-five percent (25%) of the total open space required shall be private and at least fifty percent (50%) of the total open space required shall be common or public. Not more than one-half of the common or public open space provided may be areas covered with water.
- B. Locations, shapes, sizes, and other characteristics of open spaces shall be consistent with their proposed uses and the purposes of the Cluster Development. Unless the Approving Authority requires otherwise meeting the Environmental Design Standards of Section 18.100, common or public open space shall be distributed equitably throughout the Cluster Development in relation to the dwelling units of the residents they are intended to serve.
- C. Dedicated open spaces shall be suitably improved for the intended use. Dedicated open spaces containing significant landscape features may be left unimproved or may be improved to assure protection of the features, subject to requirements imposed by the Approving Authority pursuant to Section 18.100.
- D. The development schedule required by 18.030(B)(1)(d) shall provide for coordination of the improvement of dedicated open spaces with the construction of other proposed site improvements.
- E. The Approving Authority shall require that the applicant assure the permanence of the common or public open space required by this section in one of the following ways:
 - 1. By conveying the dedicated open space to a public agency which will agree to maintain the dedicated open space and any buildings, structures, or improvements which have been placed on it; or
 - 2. By conveying the dedicated open space to a Homeowners' Association, subject to

covenants running with the land which restrict the common open space to the uses specified in the final development plan, and which provide for the maintenance of the common open space in a manner which assures its continuing use for its intended purpose.

- F. If the common open space is to be deeded to a Homeowners' Association, the declaration of covenants and restrictions required by 18.030(B)(1)(f) shall include the following:
1. The Homeowners' Association must be set up before the homes are sold. Prior to such sale, the property owner assumes the responsibility of that share attributable to each unsold home defined in the Homeowners' Association.
 2. Membership must be mandatory for each home buyer and any successive buyer.
 3. The dedicated open space restrictions must be permanent, not just for a period of years.
 4. The association must be responsible for liability insurance, local taxes, and the maintenance of recreational and other facilities.
 5. Residence owners must pay their pro rata share of the cost. The assessment levied by the Association can become a lien on their property.
 6. The association must be able to adjust the assessment to meet changed needs.
- G. If the common open space is to be deeded to a Homeowners' Association, the Approving Authority shall require that one of the following enforcement methods be provided by the applicant:
1. Conveyance to the County of the legal right to develop the common open space for uses not specified in the final development plan; or
 2. Inclusion in the conveyance of the common open space, a condition that the fee title of the common open space shall vest in the County in the event of a substantial default in the conditions and restrictions governing the use and maintenance of the common open spaces; or
 3. Inclusion in the conveyance of the common open space a condition that, in the event a common open space is permitted to deteriorate or is not used and maintained consistently with the final development plan, the County may, at its own option, cause such maintenance to be done and assess the cost to members of the association.

SECTION 18.100 Environmental Design Standards

- A. The preliminary development plan shall provide, to the greatest extent possible, for the preservation of significant landscape features, historic sites, and landmarks and for the integration of the proposed development with the environmental characteristics of the site and adjacent areas. The Approving Authority may require that significant landscape features and historical sites be preserved as part of the common or public open space of the project.
- B. Excessive site clearing of topsoil, trees and natural features before the commencement of construction operations shall be discouraged. The Approving Authority may require the applicant to submit a grading plan detailing proposed excavation, earth-moving procedures, and other changes to the landscape, in order to ensure preservation of the character of the area to be retained in open space.
- C. Sites for residential and non-residential buildings shall be discouraged in areas of natural hazards, such as floodplains, areas subject to landslides, areas with average slopes greater than twenty-five percent (25%) and areas with unstable soil formations. The Approving Authority shall require that all floodplains be preserved as permanent common or public open space, and may require that other natural hazard areas be included in the common or public open space of the proposed development and be left unimproved or improved to assure minimization of the hazard.
- D. All manufactured slopes, other than those constructed in rock, shall be planted or otherwise protected from the effects of storm runoff erosion, and shall be of a character to cause the slope to blend with the surrounding terrain and development. The applicant shall provide for maintenance of the planting until growth is established.
- E. The preliminary development plan shall promote the conservation of energy and use of solar or other renewable energy resources through such factors as the location and extent of site improvements, the orientation and exposure of buildings and usable open spaces, the types of buildings, and the selection of building materials.

SECTION 18.110 Traffic Circulation

The location and number of points of access to the site, the interior circulation pattern of streets and pedestrian ways, the separations between pedestrians and moving and parked vehicles, and the arrangement of parking areas in relation to buildings and uses shall be designed to maximize safety and convenience and be compatible with neighboring road systems, buildings and uses.

SECTION 18.120 Perimeter Design

- A. The preliminary development plan shall minimize adverse impacts of proposed uses and structures in the Cluster Development on existing and anticipated uses and structures in the adjacent area.
- B. If topographical or other barriers do not provide reasonable privacy for existing uses adjacent to the development, the Approving Authority shall require one or more of the following:
 - 1. A special setback, or setbacks, of residential and non-residential structures shall be located on the perimeter.
 - 2. Residential and non-residential structures located on the perimeter of the development shall be screened by fencing, landscaping, or other natural or man-made materials.

SECTION 18.130 Development Phasing

- A. The applicant may provide in the preliminary development plan for development of the project in up to three (3) phases.
- B. In acting to approve the preliminary development plan, the Approving Authority may require that development be completed in up to three (3) specific phases, if it finds that public facilities would not otherwise be adequate to serve the entire development.
- C. If the preliminary development plan provides for phased development, each phase shall provide for the same ratio of open space and/or recreational facilities to dwelling units as the over-all project.
- D. The following time limitations shall be observed in phased development proposals:
 - 1. Phase 1--final development plan must be approved within twelve (12) months of the date of preliminary plan approval.
 - 2. Phase 2--final development plan must be approved within twenty-four (24) months of the date of preliminary plan approval.
 - 3. Phase 3--final development plan must be approved within thirty-six (36) months of the date of preliminary plan approval.

SECTION 18.140 Duration of Cluster Development Preliminary Development Plan

Approval

- A. Approval of the preliminary development plan shall be valid for twelve (12) months from the date of approval, provided that if an approved preliminary development plan provides for phased development, the approval shall be valid for the time specified for each phase, subject to the time limitations of 18.130(D).
- B. If any time limit for obtaining final development plan approval is exceeded, the approved preliminary development plan, or phase of the preliminary development plan and any subsequent phase, shall be void. Any subsequent proposal by the applicant for planned development of the subject property shall be deemed a new development request.

SECTION 18.150 Cluster Development Final Development Plan Approval

Approval of a Cluster Development final development plan is subject to 2.050(B) of this Ordinance.

- A. Within twelve (12) months of the date of approval of the preliminary development plan, unless otherwise specified pursuant to Section 18.130, the applicant shall submit a final development plan, prepared by an Oregon registered engineer, and supporting documents to the Director.
- B. The final development plan shall include:
 - 1. The site plan and maps submitted pursuant to 18.030(B)(2) in their final, detailed form, and including reasonable assurance that an adequate, potable, year-round water supply is available for the development.
 - 2. The documents submitted pursuant to 18.030(B)(1) amended to incorporate any conditions imposed on the preliminary development plan approval.
 - 3. Final subdivision plat or partition map, if the land is to be divided.
 - 4. Except as permitted by the Approving Authority pursuant to (F) of this section, documents conveying common open space to a Homeowners' Association, including the restrictive covenants and conditions required by 18.090(E) to (G).
 - 5. Articles of Incorporation of the Homeowners' Association formed to maintain common open space and other common improvements.
- C. The Director shall require the applicant to enter into an agreement with the County to

complete all improvements required by the final development plan according to a schedule set forth in the agreement.

D. Agreement for Improvements:

1. Before approval of the final development plan, the applicant shall either install the improvements required by the preliminary plan approval and repair existing streets and other public facilities damaged in the development of the Cluster Development, or shall execute and file with the Court an agreement between himself/herself and the County specifying the period within which required improvements and repairs will be completed. The agreement may provide for the construction of the required improvements in phases. The agreement shall provide that if work is not completed within the period specified, the County may complete the work and recover the full cost and expense thereof from the applicant.
2. An applicant may request an extension of time for completion of required improvements. Such request will be considered an application for Administrative Action. Such extension shall be approved only if changed conditions for which the applicant is not responsible have made it impossible for him/her to fulfill the agreement within the original time limit(s).

E. Performance Bond:

1. To assure full performance of the improvement agreement, an applicant shall file one of the following:
 - a. A surety bond executed by a surety company authorized to transact business in the State of Oregon on a form approved by the District Attorney; or
 - b. Cash deposit with the County Treasurer; or
 - c. Certification or letter of assurance by a bank or other reputable lending institution that money is being held to cover the cost of improvements and incidental expenses, and that said money will be released only upon the direction of the County Court. The bank certification or letter of assurance shall be approved by the District Attorney; or
 - d. Cash deposit with an escrow agent authorized to transact business in the State of Oregon subject to escrow instructions that require the escrow agent to release the money only upon the direction of the County Court. Escrow instructions shall be approved by the District Attorney.
2. Such assurance of full and faithful performance shall be for a sum determined by the County Court to be sufficient to cover the cost of the improvements and repairs that

may be required prior to approval of the final plan, including related engineering, and may include an additional percentage as determined by the County Roadmaster to cover any inflationary costs which may be incurred during the construction period prior to the full and final completion of the project.

3. If the applicant fails to carry out provisions of the improvement agreement and the County has unreimbursed costs or expenses resulting from such failure, the County shall call on the bond or cash deposit for reimbursement. If the amount of the bond or cash deposit exceeds the cost and expense incurred, the remainder shall be released. If the amount of the bond or cash deposit is less than the cost and expense incurred, the applicant shall be liable to the County for the difference.

F. Action by the Approving Authority:

The Approving Authority shall take action on the application for final approval in accordance with the procedures outlined in Chapter 2 of this Ordinance, and shall approve the final development plan if:

1. The applicant has submitted all information and documents required pursuant to (B), (C) and (D) of this section; and
2. The final development plan is in substantial compliance with the approved preliminary development plan and any conditions imposed by the Approving Authority. Substantial compliance means that any differences between the final and preliminary plan are "minor amendments" as defined in 18.170(A)(1).

G. Recording a Final Development Plans:

The approved final development plan shall be recorded in the County Clerk's office within thirty (30) days of the date of approval.

SECTION 18.160 Expiration of Final Development Plan Approval

- A. If the Director determines that no substantial construction or development has occurred within two (2) years of the date of approval of the final development plan for a Cluster Development, or for a phase thereof, the Director shall initiate an Administrative Action to consider invalidating the final development plan approval.
- B. The Approving Authority shall invalidate such final development plan approval unless it determines that the applicant was not responsible for the failure to complete substantial construction, and that the applicant will be able to complete the development within two (2) years.

- C. If final development approval is invalidated, any subsequent proposal by the applicant for planned development of the subject property shall be deemed a new application for preliminary development plan approval.

SECTION 18.170 Amendments to Approved Preliminary and Final Development Plans

A. Definitions:

- 1. "Minor Amendment" means a change which:
 - a. Does not increase residential densities;
 - b. Does not enlarge the boundaries of the approved plan;
 - c. Does not change any use;
 - d. Does not change the general location or amount of land devoted to a specific land use, including open space;
 - e. Does not eliminate the preservation of a significant landscape feature; and
 - f. Includes only minor shifting of the location of buildings, proposed public or private streets, pedestrian ways, utility easements, or common or public open spaces.
 - 2. "Major Amendment" is any change which does not meet the definition of a "Minor Amendment".
- B. A minor amendment to an approved preliminary or final development plan may be approved ministerially by the Director.
 - C. A major amendment to an approved preliminary or final development plan shall be considered a new development request subject to the provisions of Chapter 2 of this ordinance.