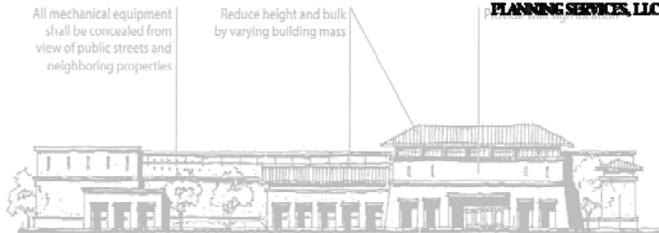
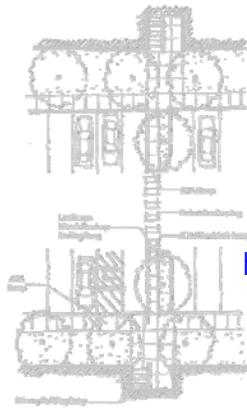


Model Development Code & User's Guide for Small Cities, 2nd Edition

Oregon Transportation and Growth Management Program



- Provide Planting Areas
- Provide secondary elements that are connected to primary entry or corner elements
- Covered pedestrian arcade/cart storage with columns
- Major entry element
- Corner element

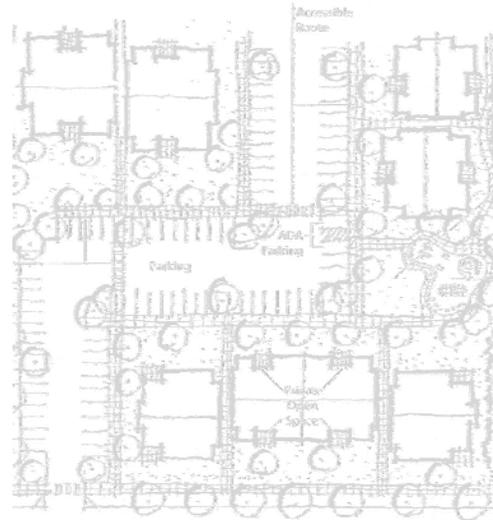


To obtain copies, contact:

Transportation and Growth Management Program
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Salem, OR 97301
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This document is also available on the internet at:
<http://www.oregon.gov/LCD/TGM/publications.shtml>

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June 2005

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This project is partially funded by a grant from the Transportation and Growth Management (TGM) Program, a joint program of the Oregon Department of Transportation and the Oregon Department of Land Conservation and Development. This TGM grant is financed, in part, by federal Transportation Equity Act for the 21st Century (TEA-21), local government, and the State of Oregon funds.

The contents of this document do not necessarily reflect views or policies of the State of Oregon.

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Model Code Index

Volume II – Model Code Provisions

(See Table of Contents provided within Volume II)

Introduction

In the last two decades, Oregonians have noticed a substantial difference in the environment of their daily lives, changes that stem from a growing population and a new economy. Despite investments in transportation, traffic congestion is increasing in some areas. Land that was once taken for granted as open space – farm fields, high desert, and coastline alike – is lost through rapid development. Residents talk about preserving a sense of place and community character, but feel they have little control over the development taking place in their own neighborhood. All these changes, and all the new choices – new houses, shopping centers, industry – can leave us feeling vaguely unsettled as if, somehow, it could have been done better.

Oregon's communities are seeking new ways to guide growth more effectively. Citizens and local officials want to improve and diversify their economy, but they want to do it on their own terms. Businesses, too, want a high quality of life. They will choose to locate and invest only in areas that offer good public services, housing choices and amenities for their employees, and a predictable development process. Increasingly, businesses are locating in small cities for their quality of life.

In responding to the challenges of growth, Oregon's small cities can maintain their cherished quality of life and allow efficient development. The compact, walkable scale of smaller communities, and the mix of land uses they contain, provide the essential building blocks of cost-effective, attractive, and livable development. By combining these elements with the best land use and development practices of today, cities can plan for a bright future.

Planning in Oregon's Small Cities

Oregon is a state of small cities. During 2004, a total of 199, or 83 percent, of the state's 241 cities had populations of less than 10,000. Altogether, these cities represent approximately forty percent of Oregon's population.

A wide range of professionals and volunteers are responsible for planning and development review in these communities. The larger jurisdictions may have one or more planners on staff, while smaller towns may have only a part-time planner or no staff at all. In some communities, the city manager or city recorder fills the role of land use coordinator while being responsible for the many other functions of a local government. Volunteer planning commissioners in small cities often pick up much of the work that paid staff would do in larger cities. Because of these workload challenges and limited resources, many small communities will forego needed planning unless good tools are available to them at a reasonable cost or, better yet, for free.

Oregon's Model Development Code for Small Cities

The *Model Development Code and User's Guide for Small Cities* ("model code") is one such tool. First published in 1999, it has been used widely around Oregon. The State of Oregon's Transportation and Growth Management (TGM) Program developed the model code in response to numerous requests for assistance from Oregon communities. Small cities wanted consistent guidance and technical expertise in zoning, development standards, review procedures, and implementation of state planning rules and statutes.

In developing the model code, the TGM Program worked with a statewide advisory committee, consisting of city officials, planning commissioners, state and regional planning agency representatives, and land use and business industry advocates. All agreed that small communities, or those with populations under 10,000, were most in need of a technical code reference. The model code was intended to help these cities, primarily, and in the following ways:

- *Integrate land use and transportation planning – or plan for smart development* – Historically, many of Oregon's small cities developed slowly in a compact, pedestrian-friendly pattern with a balance of land uses, adequate transportation, and a distinct character or sense-of-place. Then in the 1990s, some cities began to grow rapidly due to strong in-migration. Concerned about the loss of community character, increased traffic, and other growth-related problems, the cities wanted assistance in updating their codes to better manage growth. Likewise, other communities that have not grown as rapidly, or that have declining populations, have requested assistance in removing regulatory obstacles to economic development.
- *Meet new legal requirements* – Many of Oregon's cities have zoning and subdivision codes that are 20- to 30-years old. These communities have requested guidance in meeting new requirements under state land use statutes, administrative rules, and case law. While the Model Code does not provide a safe harbor for complying with all of the legal requirements under Oregon's complex land use system, it does provide examples and guidance on how to address some common legal issues. It is also intended to avoid regulatory takings by recommending standards and procedures that make it easier to build some types of projects in every zoning district. The model code provisions also encourage high quality design in development, which can increase property values.
- *Provide a user-friendly, flexible model code* – The cities wanted a one-stop reference that could be adapted to fit local characteristics and values.

The Second Edition

Over thirty Oregon cities on both sides of the Cascade Mountains, with populations ranging from under 1,000 to over 50,000 used the first edition ("first edition") of the model code. Some cities completely rewrote their regulations based on the model, while others selected individual chapters or sections that met their specific needs (*e.g.*, new zoning districts, review procedures, design standards, and Transportation Planning Rule implementation).

The first edition was widely distributed around the state and nationally. It even won a national award and was praised for its unified format, graphically-based standards, and encouragement of mixed-use and pedestrian-oriented design. However, after five years of use, some deficiencies became evident.

The first edition lacked a complete set of definitions, and some of its discretionary standards were difficult to interpret without definitions. Communities that adopted parts of the model code without updating and cross-referencing their existing ordinances, inadvertently created code conflicts. Others found some of the model regulations overly restrictive. Most agreed that the original user's guide did not adequately explain how to customize the standards. Finally, soon after the model code was published and distributed, the legislature changed some of the state's planning laws, causing legal conflicts within the model code.

This *Second Edition* is intended to address the above deficiencies, incorporate new best practices, and make the document easier to use. It is a flexible document that is intended to be customized by cities to meet their needs. Cities are encouraged to examine their historical development patterns, determine what they like, what they want to improve, and which model code provisions will help them achieve their vision.

Finally, while the authors have tried to address all of the applicable state land use requirements (as of June 2005), cities should always consult their own legal counsel in drafting new regulations.

How to Use the Model Code

This *Second Edition* contains six Articles:

- **Article 1 – Introduction.** On request of cities, the definitions section has been expanded greatly and a new section contains a one-stop shop for all of the land use categories that are used throughout the code.
- **Article 2 – Land Use Districts.** The land use and development standards have been updated and new zoning districts – Residential-Low, Residential-Medium, Residential-Commercial, and General Commercial zones – have been created to make the document more flexible.
- **Article 3 – Community Design Standards.** The design standards have been updated and reorganized to make the document easier to use, and to better integrate land use and transportation objectives.
- **Article 4 – Administration of Land Use and Development.** The procedures have been updated consistent with changes made in other Articles, and to address current statutes and administrative rules as of June 2005.
- **Article 5 – Exceptions to Code Standards.** The chapters on variances and non-conforming situations have been updated, and a new chapter on lots of record has been added.
- **Article 6 – Land Use District Map Amendments and Code Interpretations.** Article 6 contains no text in this model; it is a place to keep your city's zone map amendments and code interpretations, making them easier to find and use.

The model code document contains **regulations** and **commentary**. The code is organized into chapters under each article. Under each chapter are code sections with regulations. The regulations typically provide a purpose statement, applicability statement, and standards. Some sections also contain approval criteria, which the approval body uses in determining when a standard has been met.

The commentary that appears in *text boxes* at the end of most sections, or in the margins next to a standard, is intended to guide the reader and assist him or her in drafting or amending local regulations. These boxes can also be used to insert city staff's comments, for example, to assist decision makers in reviewing draft code provisions. In addition, the Appendix (following this introduction) contains a reference list and Transportation Planning Rule checklist for cities to use in updating their codes. Because the Appendix and commentary boxes are not part of the code, they must be removed before finalizing codes for adoption.

Read These! Use Them!

These boxes provide background on specific standards, point out key issues or legal requirements, and offer guidance.

The *[italicized and bracketed text]* within the regulations indicates a range of options or places where cities need to customize the model code language. For example, references to “[city official]” need to be replaced with appropriate city officials’ titles. Where the model provides a range of numerical standards (e.g., setbacks, building heights, lots sizes), cities should tailor the standards based on existing conditions in the community. Where backslashes (“/”), separate two or more options, cities are to choose an option or insert their own terminology (e.g., *public hearing before the [Planning Commission / City Council]*).

The model code options are limited only by space. Many other possibilities exist, and users of the document should carefully consider the needs of their community and applicable law in tailoring the regulations. The model code commentary is intended to help guide this work. Comments text boxes provide background on specific standards, point out key issues or legal requirements, and offer guidance.

Before Getting Started

Before using the model code, city staff and citizen volunteers should have a firm understanding of the community’s land use and development goals. A city that is in the process of updating its comprehensive plan (or transportation system plan) should complete that process before drafting new implementing regulations. This will help ensure that new codes reflect the community’s vision. In addition, state law requires that all land use regulations be consistent with the city’s acknowledged comprehensive plan.

The following steps are recommended for city planners and administrators in preparing for a code update:

- **Interview code users.** Talk with city staff, local developers and builders, real estate professionals, surveyors, engineers, property owners (e.g., those who have been through local land use processes), and staff from other agencies and service providers who are involved in the city’s development process. These individuals can provide important input and help in clarifying problems related to existing regulations. Contacting them early in the process can also help introduce the

concept of revising the city's codes in a non-confrontational manner. This should be done in one-on-one or small group meetings to encourage candid discussion

- ***Appoint an advisory committee.*** Appointed by the city council, your committee should include some of the stakeholders you have interviewed and representatives from the planning commission and at least one city councilor. The committee of approximately 8-15 members can effectively assist city officials and decision makers by:
 - ensuring that the codes address important community issues and include perspectives from a representative cross-section of the community;
 - reviewing and commenting on preliminary drafts of the new code; and
 - supporting public involvement and education efforts during the code adoption and implementation.

These advisory committees are typically subject to public meeting laws.

- ***Review the city's existing codes.*** After talking with stakeholders and identifying general code-related issues, you should compare the city's existing regulations to the model code. This will help in determining whether to create a completely new code or amend the city's existing ordinances. Technical assistance with this process is also available through the TGM Program.
- ***Work program.*** A complete code update work program may include the following items, as appropriate to your community:
 - Public information and education about existing ordinances;
 - Information and graphics comparing the existing ordinances to proposed amendments;
 - Public meetings, workshops, open houses, and other opportunities for public input on proposed changes;
 - Coordination with other agencies (*e.g.*, especially if the city contracts out plan review services);
 - Public notification for code adoption hearings, including required notices under state law – see Chapter 4.1.500 of the model code;
 - Updated fee schedules, application forms, and any informational handouts explaining the city's new codes and procedures for property owners;
 - Training (*e.g.*, for city officials and planning commissioners);
 - Changes to other related municipal codes (*e.g.*, system development charges, nuisances, etc.); and
 - Minor modifications to the city's comprehensive plan (*e.g.*, enabling policies and map revisions for new or renamed zoning districts).

Appendix

1. References
2. Urban Land Use Statutes and Administrative Rules
3. Transportation Planning Rule Code Revisions Checklist

Appendix 1 – References

Useful Web Sites

[American Planning Association](#)
[American Public Transportation Association](#)
[Congress for New Urbanism](#)
[Federal Highway Administration](#)
[Federal Transit Administration](#)
[League of Oregon Cities](#)
[Local Government Commission](#)
[Metro](#)
[National Association of Realtors](#)
[National Center for Bicycling and Walking](#)
[National Transportation Enhancements Clearinghouse](#)
[Oregon Bicycle/Pedestrian Program](#)
[Oregon Department of Land Conservation & Development](#)
[Oregon Department of Aviation *Airport Land Use Compatibility Guidebook*](#)
[Oregon Department of Transportation](#)
[ODOT Development & Planning](#)
[Oregon Transportation Enhancements Program](#)
[Oregon Transportation and Growth Management Program](#)
[Oregon Transportation and Growth Management Program Publications](#)
[Project for Public Spaces](#)
[Rails to Trails Conservancy](#)
[Reconnecting America](#)
[Smart Growth America](#)
[Smart Growth Network/U.S. EPA](#)
[Surface Transportation Policy Project](#)
[Transportation Research Board](#)
[Urban Land Institute](#)
[Walkable Communities, Inc.](#)
[Walking in Washington - Washington State Department of Transportation \(*Pedestrian Facilities Guidebook: Incorporating Pedestrians into Washington's Transportation System*\)](#)

Appendix 2 – Urban Land Use Statutes and Administrative Rules

Statutes

ORS 92.830 - 92.845	Subdivision of manufactured dwelling or mobile home park
ORS 195.110 – 195.115	School Facility Planning
ORS 195.110(4)(b), (c)	Notice of plan or land use regulation amendments that significantly impacts school capacity.
ORS 195.110(11)	School capacity may not be sole basis for decision on residential development application.
ORS 197.195	Limited land use decision
ORS 197.200	Refinement plans
ORS 197.295 – 197.314	Needed Housing in Urban Growth Areas
ORS 197.303	Definition of needed housing
ORS 197.307	Clear and objective standards and conditions required; two-track process permitted.
ORS 197.314	Manufactured homes on individual lots
ORS 197.360 – 197.380	Expedited Land Divisions
ORS 197.475 – 197.490	Mobile home and manufactured dwelling park siting
ORS 197.610 – 197.650	Post-Acknowledgment Procedures
ORS 197.610(1), (2)	45-day notice to DLCDC
ORS 197.615	Copies of local adopted text amendments and findings to DLCDC
ORS 197.626	Copy of UGB expansion to LCDC.
ORS 197.646	Local implementation of new or amended goals, rules, or statutes.
ORS 197.660 – 197.670	Residential homes and facilities
ORS 197.752	Concurrency requirement
ORS 197.763	Conduct of quasi-judicial land use hearings
ORS 197.764	Application to remove land from UGB
ORS 197.772	Consent for designation of historic property
ORS 227.100, 227.110	Review and approval of subdivision and vacation plats
ORS 227.160 – 227.187	Planning and zoning hearings and review procedures and rules, including:
ORS 227.178	120-day rule
ORS 227.186	Measure 56 notice
ORS 227.215 –227.300	Development ordinances and their enforcement
ORS 227.500	Zoning of land used for religious activity (RLUIPA)

Statutes (*continued*)

ORS 443.400	Residential facilities and homes defined
ORS 443.705 – 443.715	Adult foster home defined
ORS 443.760	Application of single-family dwelling code requirements

ORS 446.003	Mobile Home and Manufactured Dwelling Parks – definitions
ORS 446.310	Tourist Facilities – definitions
ORS 446.440	Mobile home or manufactured dwelling park is not a condominium for local zoning and planning purposes

Regulations

OAR 660-007	Metropolitan Housing
OAR 660-007-0005	Definitions
OAR 660-007-0015	Clear and Objective Approval Standards Required
OAR 660-008	Housing (Interpretation of Goal 10)
OAR 660-008-0005	Definitions
OAR 660-008-0015	Clear and Objective Approval Standards Required
OAR 660-012	Transportation Planning Rule
OAR 660-012-0005	Definitions
OAR 660-012-0045	Implementation of the TSP
OAR 660-012-0060	Plan and Land Use Regulation Amendments
OAR 660-018	Plan amendments
OAR 660-018-0010	Definitions
OAR 660-018-0020	45-day notice to DLCD
OAR 660-018-0040, 0045	Submittal of adopted amendments to DLCD
OAR 660-018-0050	Notice to Other Parties
OAR 660-018-0060	Who May Appeal

Appendix 3 – Transportation Planning Rule (TPR) Code Revisions Checklist

(Not all provisions will apply to all jurisdictions. For specific requirements, please consult the relevant code implementation provisions of the Transportation Planning Rule in OAR 660-012-045 and 660-012-060.)

- Land Use Regs. to Protect Facilities, Corridors, and Sites
 - access control consistent with functional classifications
 - standards to protect future operation of roads, transit
 - measures to protect public airports
 - process for coordinated review of actions affecting facilities, corridors, sites
 - process to condition development to minimize impacts and protect
 - notice to public agencies, MPOs, and ODOT
 - land use applications requiring public hearings
 - land divisions
 - applications affecting access to roads
 - applications w/in airport noise corridors and imaginary surfaces
 - changes to zoning, densities, design standards consistent with TSP

- Land Use Regs. for Ped, Bike, and Vehicle Circulation
 - bike parking w/ multi-fam., retail, office, institutional, transit stations, park&ride
 - on-site facilities for bike/ped access
 - from subdivisions, m-f res., PUDs, shopping centers, commercial districts
 - to adjacent res. Areas, transit stops, activity centers w/in 1/2 mile
 - activity centers: schools, shopping, transit stops, employment centers
 - sidewalks required along arterials, collectors, most local streets
 - cul-de-sacs only where constraints make connections impracticable
 - Safe and convenient for bikes/peds routes means:
 - reasonably free of hazards/conflicts with autos
 - reasonably direct route of travel
 - meets travel needs: optimal ped trip 1/4 to 1/2 mile
 - internal ped circulation in office parks/commercial developments

- Transit Supportive Development
 - >25,000 pop. w/exist transit or where future system feasible
 - support transit by enabling bus stops, pullouts, shelters, road geometry, etc.
 - retail, office, institutional buildings provide convenient access to transit

- walkways connecting streets to buildings
- connections except where impracticable: 045(3)(b)(E)
- at major transit stops
 - buildings w/in 20 feet or provide ped. plaza
 - reasonably direct connection to buildings
 - accessibility for disabled persons
 - easement or dedication for shelter if transit provider requests
 - lighting
 - pedestrian districts (optional)
 - employee parking must provide van/carpool preference
 - redevelopment for transit facilities shall be allowed
 - roads for new development shall provide for transit

- Reduce Reliance on Automobiles (MPOs)
 - Allow TODs along transit routes
 - implement demand management program
 - implements parking plan
 - 10% reduction in spaces per capita over planning period
 - minimum and maximum standards
 - industrial, instit., retail, office, provide transit stop or connection when requested

- Local Street Standards
 - minimize pavement width and total right of way

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Article 1.0 — Introduction

Chapter 1.1 — How to Use the Development Code

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- 1.4.230 Major Event Entertainment
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