

Implementation Guidance

Unbundled Parking



OREGON

Department of
Land Conservation
& Development

Updated to reflect temporary rules adopted April 20, 2023, effective May 12, 2023 for up to 180 days. Staff expect those rules generally to be made long-term rules at the November 2023 commission meeting.

DLCD and LCDC developed the Climate-Friendly and Equitable Communities program to support communities taking action to meet Oregon's climate pollution reduction goals. The program works to help provide more housing and transportation choices and improve equity.

DLCD is providing this resource as part of our technical assistance program. Please see our website at www.oregon.gov/lcd/CL/Pages/CFEC for more information or to sign up for notices.

What is Unbundled Parking and Why Should Communities Consider it?

Unbundled parking is paying for parking separately from paying for the rent, lease or purchase of a residential or commercial unit, with the option to not use and pay for parking. Unbundled parking is officially defined in [OAR 660-012-0005\(57\)](#).

Separating the cost of parking from other goods can significantly impact mode choice. When there is a price on parking, commuters look to make other, more climate-friendly choices such as transit, carpooling, walking or biking. [One study](#) found a 17% decrease in solo driving to work when commuters had to pay for parking at work, versus having the costs of that parking hidden and subsidized. In that study, carpooling increased 64%, transit use increased 50%, and walking and biking increased 33%. The collective mode shifts reduced total driving commute miles by 12%. [Another study](#) found unbundling parking can cut transportation-related climate pollution by up to 15.7%.

Being explicit about the cost of parking and allowing people to avoid that cost helps people make more climate-friendly decisions, such as carpooling, transit, walking and biking. Unbundling also improves equity, as the majority of households who do not own cars are in the bottom fifth of households in terms of income, and homeowners own 50% more cars than renters. Where parking is bundled in with other goods, these households disproportionately subsidize parking for those with more resources.

Application and Deadline for Action

Under OAR 660-012-0420, jurisdictions must choose one of three parking reform paths by June 30, 2023, or an approved alternate date.

Jurisdictions that do not repeal parking mandates (reform path 1) may either adopt a fair parking policy approach per OAR 660-012-0445(1)(a) or a reduced regulation parking management approach per OAR 660-012-0445(1)(b).

Jurisdictions choosing the fair parking policy path per OAR 660-012-0445(1)(a) must implement at least two policies listed in that rule, including at least one policy in OAR 660-012-0445(1)(a)(A) through (C). One policy is to require unbundled parking for each residential unit in developments that include five or more leased or sold residential units on a lot or parcel (OAR 660-012-0445(1)(a)(A)). Another policy is to

require unbundled parking for parking spaces serving leased commercial developments. (OAR 660-012-0445(1)(a)(B)). For either policy, unbundling is required throughout the jurisdiction.

Jurisdictions that adopt a reduced regulation parking management approach per OAR 660-012-0445(1)(b) have an option in (N) to either create a residential parking district, a parking benefit district or require multi-family residential units have unbundled parking (OAR 660-012-0445(1)(b)(N)(ii)).

What Do Cities/Counties Have to Do?

The department recommends unbundling occur through: (1) the adoption of a general ordinance regulating rental, lease, and sales agreements and (2) an ordinance with amendments to the jurisdiction's development code requiring new development and redevelopment to unbundle parking.

Procedural requirements described below can be contained in both ordinances, or established in one ordinance with appropriate cross-references to the other.

Rental, Lease, and Sales Ordinance

The ordinance regulating rental, lease and sales should apply to the geographic areas and types of development set forth in the CFEC rules.

Rental and Lease

The ordinance should require any lease or rental agreement entered into after the effective date of the ordinance for space in those specified developments shall unbundle parking from the rental or lease of the tenant space. This rental/lease ordinance is intended to implement unbundled parking policies for existing developments. This general ordinance is not intended to invalidate the terms of any existing contracts. It is intended to take effect separate from any land use action, allowing tenants of existing spaces to benefit. Implementing this policy broadly and expeditiously improves equity so the option to avoid paying for unused parking is not limited to tenants in new or redeveloped buildings.

Residential lease and rent agreements are subject to [ORS Chapter 90](#), Residential Landlord and Tenant Act. DLCD staff are not aware of conflicts with provision of the Residential Landlord and Tenant Act and adopting unbundled parking requirements. Jurisdictions are not precluded from adopting ordinances implementing rental or lease regulations in addition to ORS Chapter 90; one notable example is the City of Portland's rental protection rules (Portland City Code 30.01.085).

Sales

Unbundling also applies to units that are sold. This will apply only to residential properties because OAR 660-012-0445(1)(a)(B) requires commercial unbundling only for leased properties. DLCD staff expects unbundling for sales of residential development will occur only in residential condominium plats.

Unbundling for sales of residential condominium units applies to any condominium plat recorded after the effective date of the unbundling ordinance. Unbundling should also be required for sales of residential units in existing condominium developments, though exceptions are appropriate to include. Ownership or access to parking may be tied to ownership of the unit in existing condominium plats and/or deeds to condominium units. As such, there can be exceptions to required unbundling where the condominium plat was recorded prior to the effective date of the unbundling ordinance and either (a) the parking space(s) do not have a legal description that allows sale as an individual unit OR (b) the declarations and any legally enforceable codes, covenants and restrictions (CC&Rs) require joint ownership of the unit and parking space or restrict parking space ownership to owners of condominium units.

Notice

Notification of the rental, lease, and sales regulations should occur to landlords and tenants. In addition to the jurisdiction's general notification requirements for an ordinance, the department recommends mailing notices to renters and owners of the properties for which unbundling will be required. This should include owner addresses on file with the assessor as well as assigned addresses within the development (address numbers, apartment numbers, suites, etc.). Absent this, a broad effort to publicize the ordinance should be made. Areas subject to unbundling will include transit corridors and climate-friendly areas and their Metro-area equivalents. All areas within the city may be subject to unbundling if a jurisdiction opts to implement OAR 660-012-0445(1)(a)(A) or (B). Within the subject areas, jurisdictions should be able to use tax lot data and assessor codes per OAR 150-308-0310 to create a list of properties that are or may likely be subject to unbundling requirements. Business licenses or rental property registrations, if required by the jurisdictions, may be additional data sources from which notification lists can be created or refined.

Land Use Ordinance

Jurisdictions should also amend their development code to require unbundling in the geographic areas and types of development that must have unbundled parking, as set forth in the CFEC rules. Including unbundling as a land use regulation highlights this requirement for developers so they can make an informed decision about the amount of off-street parking to construct. This land use regulation will limit the oversupply of parking because developers will construct only the amount of parking that they expect tenants will opt to pay for. This will lead to better utilization of land and building space, create a more walkable and bikeable urban form, and reduce vehicle ownership.

Including unbundling in the development review process also increases the visibility of this requirement and makes it easier to track as a condition of approval, development casefile notation, and/or notation on the affected property(s) in the jurisdiction's development permitting system.

Applicants receiving land use approval after the effective date of the ordinance should be notified about the rates. Failure to offer tenants who do not use parking the ability to opt out of paying for it, and failure to charge the minimum rate should be considered a violation of the ordinance.

Determining Market Rates for Comparable Local Off-Street Parking

The rule specifies spaces must be rented, leased, or sold at market rates for comparable local off-street parking (in OAR 660-012-0005). A local unbundling ordinance should establish a process for the jurisdiction to determine a minimum rate(s) for unbundled parking and for distributing that information to affected landlords and tenants. Minimum rates should be re-evaluated at regular interval and should be able to be set by staff rather than requiring council or commission action.

Where possible, comparable rates should be established by surveying monthly parking rates for off-street parking lots or garages. Unbundled parking for sites near the surveyed lots or garages should reflect these market rates. Rates may be adjusted for unbundled parking that is geographically distant from the surveyed lots or garages. Another option is to survey rates for car storage; the department usually finds these rates ranges from \$60 to \$200/month. Generally, it would be surprising for appropriate unbundled parking rates to be less than \$50/space/month.

Where Unbundling Applies

Unbundling pursuant to OAR 660-012-0445(1)(a)(A) and (B) applies everywhere within the jurisdiction's boundaries.

Developments that Must Have Unbundled Parking

OAR 660-012-0445(1)(a)(A) requires “... each residential unit in developments that include five or more leased or sold residential units on a lot or parcel be unbundled parking. Cities and counties may exempt townhouse and rowhouse development from this requirement.” OAR 660-012-0445(1)(b)(N)(ii) requires “... parking for multi-family residential units to be unbundled parking.”

In the context of residential development, parking should be unbundled when located in a general or common area, such as surface parking surrounding a building or in a parking garage, podium parking, or tuck-under parking. Townhouse and rowhouse development is exempt (OAR 660-012-0445(1)(a)(A) states this explicitly; OAR 660-012-0445(1)(b)(N)(ii) should be read the same way). This exemption is intended to apply for parking spaces that are structurally attached to and accessible directly from the dwelling unit, or surface parking located exclusively on the same lot or parcel as the dwelling unit.

OAR 660-012-0445(1)(a)(B) requires parking spaces serving leased commercial developments be unbundled parking. For this rule, commercial development should be understood as inclusive of retail, service, and office uses. The department recognizes the lease or ownership status of a commercial development is not necessarily reviewed in a land use application, and that the status is subject to change. For existing developments, the issue of unbundling should be resolved between the commercial tenant and landlord as new lease agreements are executed, with local staff being involved if a complaint is received.

As new commercial development or redevelopment occurs, it is recommended a condition of approval, development casefile note, and/or similar notation in a development permitting system be placed on the property. This notation will make it easier to research whether commercial parking is required to be unbundled in the event the commercial space is leased. The department does not intend the rule to require local staff to actively track commercial development lease status. Commercial landlords should have awareness of unbundling requirements from the initial outreach conducted during adoption of the rental/lease ordinance or from the land use application review.

Enforcement

Enforcement of the unbundling land use ordinance can be handled in the same manner as other violations of the development code, and enforced consistent with a jurisdiction’s code enforcement policies and prioritization. Unbundling is a new area of regulation for many jurisdictions. However, it is similar to other more common operational regulations such as hours of operation in certain zones, ground-floor commercial doors being open during business hours, or activity limitations for home occupations.

Jurisdictions are advised to consult their legal counsel in drafting the rental, lease and sales ordinance, including the enforcement provisions. Violations of this ordinance can be failure to offer unbundled parking, failure to charge appropriate market rates for unbundled parking, or failure to comply with any reporting about unbundled parking. Enforcement may be based on code enforcement used for land use, nuisance, and other jurisdictional ordinances. While a complaint-based enforcement approach is acceptable, random spot checks may increase compliance. Any complaint-based enforcement approach should work to protect those filing complaints. Another option may be to specify damages and fees for ordinance violations that can be a cause of action in court ([this is Seattle’s](#)).

Model Language for Development Code

Codes with land use regulations requiring unbundled parking:

- City of Seattle (Chapter 23.42.070) - https://library.municode.com/wa/seattle/codes/municipal_code?nodeId=TIT23LAUSCO_SUBTITLE_III_LAUSRE_CH23.42GEUSPR_23.42.070PARELEMUDWUNCOUS.
- City of Berkeley (Title 23.334.030.A, part of Transportation Demand Management requirements) – [https://berkeley.municipal.codes/BMC/23.334.030\(A\)](https://berkeley.municipal.codes/BMC/23.334.030(A)).
- City of San Francisco (Article 1.5, Section 167) - https://codelibrary.amlegal.com/codes/san_francisco/latest/sf_planning/0-0-0-19298.
- City of Oakland (Section 17.116.310) - https://library.municode.com/ca/oakland/codes/planning_code?nodeId=TIT17PL_CH17.116OREPALORE_ARTVSTREPALOFA_17.116.310UNPA
- City of Santa Monica (Section 9.28.110) - https://library.qcode.us/lib/santa_monica_ca/pub/municipal_code/item/article_9-division_3-chapter_9_28-9_28_110.
- City of Bellevue (Chapter 20.25J.050(B)) - <https://bellevue.municipal.codes/LUC/20.25J.050>

Unbundling required for lease and rental agreements:

- City of Seattle (Chapter 7.24.030.G) - https://library.municode.com/wa/seattle/codes/municipal_code?nodeId=TIT7COPR_CH7.24REAGRE_7.24.030REAGRE

Contact Information

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Disclaimer

This document aims to provide more details about the rules, and how the department intends to administer the rules. Nothing in this document should be construed as Oregon Administrative Rules. A current copy of the adopted rules should be acquired from the [Oregon Secretary of State](#) and used to fulfill planning requirements.

Rules Language

OAR 660-012-0005: Definitions

[...]

- (57) “Unbundled parking” means a requirement that parking spaces for each unit in a development be rented, leased, or sold separately from the unit itself. The parking space(s) must be rented, leased, or sold at market rates for comparable local off-street parking. The renter, lessor, or buyer of the unit must be allowed to opt out of renting, leasing, or buying the parking space.

OAR 660-012-0445: Parking Management Alternative Approaches

- (1) In lieu of adopting land use regulations without parking mandates under OAR 660-012-0420, cities and counties shall select and implement either a fair parking policy approach as provided in subsection (a), or a reduced regulation parking management approach as provided in subsection (b).

- (a) A fair parking policy approach shall include at least two of the following five provisions, including at least one provision from paragraphs (A) – (C):

(A) A requirement that parking spaces for each residential unit in developments that include five or more leased or sold residential units on a lot or parcel be unbundled parking. Cities and counties may exempt townhouse and rowhouse development from this requirement;

(B) A requirement that parking spaces serving leased commercial developments be unbundled parking;

[...]

- (b) A reduced regulation parking management approach shall include all of the following: [...]

(N) Implementation of at least one pricing mechanism, either:

(i) Designation of at least one residential parking district or parking benefit district where on-street parking is managed through paid permits, meters, or other payments; or

(ii) Requirements that parking for multi-family residential units be unbundled parking.