

CHAPTER 2.12 LOT DEVELOPMENT OPTION

Section 2.12.10 - BACKGROUND

A Lot Development Option provides a means to obtain, within specified thresholds, variations from some clearly measurable, numerically quantifiable development standards. The Lot Development Option exists for those circumstances where uniform, unvarying rules would prevent a more efficient use of a lot or parcel, prevent better preservation of Significant Natural Features, and/or prevent innovation in site planning and architectural design. A typical example is permitting a structure to be located closer to a property boundary than normally allowed by the zone regulations.

A Lot Development Option applies only to existing individual lots or parcels or to individual lots or parcels that are approved, or requested for approval, as part of a Tentative Subdivision Plat or Minor Land Partition process. Proposed modifications that exceed the allowed scopes of Minor and Major Lot Development Options as outlined in this Chapter need to be sought through the Planned Development process described in Chapter 2.5 - Planned Development.

Unless otherwise stated in the following chapters, the Lot Development Option process shall not be used to vary from the standards in Chapter 4.5 - Natural Hazard and Hillside Development Provisions, Chapter 4.11 - Minimum Assured Development Area (MADA), Chapter 4.12 - Significant Vegetation Protection Provisions, and Chapter 4.13 - Riparian Corridor and Wetland Provisions. Requests for variations to the requirements in Chapter 4.0 – Improvements Required with Development shall be processed as a Major Lot Development Option.

Section 2.12.20 - PURPOSES

Procedures and standards for the review of Lot Development Options are established in this Chapter for the following purposes:

- a. Permit efficient use of land;
- b. Provide flexibility and innovation in site planning and architectural design on individual lots;
- c. Encourage construction techniques and allow building locations that conserve energy;
- d. Minimize procedural delays and ensure due process in the review of unique development situations;
- e. Provide an avenue for better preservation of Significant Natural Features; and

- f. Provide benefits within the development that compensate for the variations from development standards such that the intent of the development standards is still met.

Section 2.12.30 - PROCEDURES

An application filed for a Lot Development Option shall comply with the following:

2.12.30.01 - Application Requirements

When the Director deems any requirement below unnecessary for proper evaluation of a proposed application, it may be waived.

An application for a Lot Development Option shall be made on forms provided by the Director and shall include the following, where applicable:

- a. Location and description of the subject property(ies), including all of the following, as relevant: address; tax assessor map and tax lot number; parcel number; written description of the boundaries of the proposal; and one set of assessor's maps of the subject site and surrounding area, with the subject site outlined in red;
- b. Signed consent by the subject property's owner(s) and/or the owner's legal representative(s). If a legal representative is used as a signatory, written proof of ability to be a signatory shall be furnished to the City. The owner's name(s) and address(es), and the applicant's name, address, and signature shall also be provided;
- c. Narrative addressing all aspects of the requested variation(s), the rationale behind the assumptions and choices made, and describing how the application meets the review criteria in Section 2.12.30.06, below; and
- d. Site plan(s) no larger than 11 by 17 in. suitable for photocopy reproduction. Site plan(s) and other graphics shall be drawn to scale and shall contain a sheet title, date, north arrow, and legend placed in the same location on each sheet and show:
 - 1. Relationship of the site to adjoining properties, streets, alleys, structures, public utilities, and drainageways;
 - 2. Identification of all requested variations;
 - 3. Lot line dimensions;
 - 4. Existing and proposed structures;

5. Structures on adjacent property(ies) affected by the request;
 6. Vehicle and pedestrian access points and accessways;
 7. Drainageways and any other prominent features;
 8. Location of trees and shrubs over three ft. in height;
 9. Fences and walls;
 10. Off-street parking facilities;
 11. Information required by Chapter 4.2 - Landscaping, Buffering, Screening, and Lighting, Chapter 4.5 - Natural Hazard and Hillside Development Provisions, Chapter 4.11 - Minimum Assured Development Area (MADA), Chapter 4.12 - Significant Vegetation Protection Provisions, and Chapter 4.13 - Riparian Corridor and Wetland Provisions, as applicable; and
 12. Any other information relevant to the proposal.
- e. Documentation that the lot(s) and/or parcel(s) under consideration fall within the thresholds identified in Section 2.12.30.03, below.
- f. An electronic version of these documents (both text and graphics, as applicable) if an applicant has produced part or all of an application in an electronic format. The applicant shall coordinate with the City regarding compatible electronic formats, to the greatest extent practicable;

2.12.30.02 - Acceptance of Application

a. Minor Lot Development Option -

1. Per ORS 227, the Director shall review the Lot Development Option application for compliance with the application requirements in Section 2.12.30.01, above. If the application is incomplete, the Director shall notify the applicant and state what information is needed to make the application complete. The applicant shall have 10 days from this notification to submit additional materials.
2. After an application is accepted as complete, any revisions to it that result in the need for an additional public notice to be mailed shall be regarded as a new application. Such new application shall require additional filing fees.

Figure 2.12-1
Typical Time Frame for Lot Development Options (LDOs)
 (Total length of time per ORS 227, as amended)



b. Major Lot Development Option -

1. The Director shall review the application in accordance with Chapter 2.0 - Public Hearings.

2. After accepting a complete application, the Director shall schedule a public hearing to be held by the Land Development Hearings Board. Notice of the hearing shall be provided in accordance with Chapter 2.0 - Public Hearings.
3. After an application is accepted as complete, any revisions to it that result in the need for an additional public notice to be mailed shall be regarded as a new application. Such new application shall require additional filing fees and rescheduling of the required public hearing.

2.12.30.03 - Determination of Lot Development Option Type - The Director shall determine whether an application qualifies as a Minor or Major Lot Development Option, as described in "a," and "b," below.

- a. Minor Lot Development Option - A Minor Lot Development is classified as General Development and shall be processed consistent with this chapter. A Lot Development Option shall be considered Minor if it:
 1. Meets "c" - "e," below; and
 2. Falls within the thresholds in "h," below.
- b. Major Lot Development Option - A Major Lot Development Option is classified as Special Development and shall be processed consistent with this chapter. A Lot Development Option shall be considered Major if it:
 1. Meets "c" - "e," below;
 2. Exceeds the thresholds of a Minor Lot Development Option in "h," below; and
 3. Falls within the thresholds in "i," below.
- c. Unless otherwise stated in the following chapters, the Minor and Major Lot Development Option processes shall not be used to vary from the standards in Chapter 4.5 - Natural Hazard and Hillside Development Provisions, Chapter 4.11 - Minimum Assured Development Area (MADA), Chapter 4.12 - Significant Vegetation Protection Provisions, and Chapter 4.13 - Riparian Corridor and Wetland Provisions.
- d. Minor and Major Lot Development Option requests shall apply only to existing individual lots or parcels or to individual lots or parcels that are approved, or requested for approval, as part of a Tentative Subdivision Plat or Minor Land Partition process. Proposed modifications that exceed the allowed scopes of Minor

and Major Lot Development Options as outlined in this Chapter need to be sought through the Planned Development process described in Chapter 2.5 - Planned Development.

- e. Whether a Lot Development Option request is Minor or Major, no more than a total of three variations may occur within a two-year period on the subject property(ies) and its parent recorded Partition, Replat, or Subdivision plat (the development-wide provision applies only to plats recorded after January 1, 2000). If a single lot is involved, variations of up to three different development standards may occur. If a development site includes plans for multiple lots through a Minor Land Partition or Tentative Subdivision Plat, and multiple variations are needed, up to three lots may be involved in variations from the same development standard or different development standards.
- f. Variations exceeding the thresholds described in "a" and "b," above, shall be sought through the Planned Development process described in Chapter 2.5 - Planned Development.
- g. Variations to Chapter 4.0 - Improvements Required with Development shall be processed as a Major Lot Development Option.
- h. **Minor Lot Development Option Thresholds** -Minor Lot Development Option requests shall involve clearly measurable, numerically quantifiable development standards that shall not exceed the thresholds listed below:
 - 1. Reducing setbacks up to 40 percent for new Residential Use structures on an undeveloped existing lot zoned RS-3.5;
 - 2. Reducing setbacks up to 100 percent for alterations to existing residential primary or accessory structures constructed prior to December 31, 2006;
 - 3. Except as provided in "1," above, reducing interior side yards on corner lots up to 70 percent for new structures;
 - 4. For lots with existing residential structures, reducing side and/or rear yard setbacks for accessory structures that are more than 60 ft. from streets (other than alleys) by up to 100 percent.
 - 5. Increasing the height of a structure by up to 10 percent;

6. Decreasing the required lot area by up to five percent. Applies only to lots created through the Minor Land Partition or Minor Replat process described in Chapter 2.14 - Partitions, Minor Replats, and Property Line Adjustments;
7. Decreasing required lot width by up to five ft., excluding accessway widths required for flag lots created through the Minor Land Partition or Minor Replat process;
8. Increasing the total ground area proposed to be covered by structures, parking spaces, or vehicular circulation areas by up to five percent over that which is permitted in the underlying zone;
9. Decreasing the area reserved for private outdoor space and/or Green Area by up to 10 percent;
10. Decreasing the project site amenities such as screening and/or landscaping by up to 10 percent;
11. Decreasing the required number of parking spaces by up to 50 percent; or increasing the number of compact parking spaces by up to 50 percent for Residential Uses on an undeveloped lot zoned RS-3.5 or on a lot containing residential structure(s) constructed prior to December 31, 2006, in any residential zone;
12. Increasing the fence height outside of Vision Clearance Areas by up to 33 percent;
13. Increasing the use size limitations up to 20% in the Mixed Use Community Shopping (MUCS) Zone. Increases in excess of 20% shall be processed through the Planned Development process in Chapter 2.5 - Planned Development.
14. Decreasing the designated Solar Access by up to 20 percent, except as provided in Chapter 4.6 - Solar Access; and
15. Adjusting up to 20 percent, other applicable clearly measurable development standards not addressed in "1" through "14," above, except that Floor Area Ratios (FARs) may not be varied because they are a required method of assuring that the land supply for commercial and industrial uses is not diluted in commercial and industrial zones where FAR restrictions are cited.

i. Major Lot Development Option Thresholds -

1. Major Lot Development Option requests shall involve clearly measurable, numerically quantifiable development standards that exceed the Minor Lot Development Option thresholds in Section 2.12.30.03.g, above; and
2. Major Lot Development Option requests may be filed only for residential uses on existing individual residentially zoned lots or parcels, or for individual residential lots or parcels that are approved, or requested for approval, as part of a Tentative Subdivision Plat or Minor Land Partition process.
3. A request to vary from the requirements of Chapter 4.0 - Improvements Required with Development shall be processed as a Major Lot Development Option.

- j.** Proposed modifications that exceed the allowed scopes of Minor and Major Lot Development Options as outlined respectively in “a” through “i,” above, need to be sought through the Planned Development process described in Chapter 2.5 - Planned Development.

2.12.30.04 - Public Notice

- a. Minor Lot Development Option -** Public Notice for a Minor Lot Development Option shall be consistent with “1,” “2,” and “3,” below.

1. The Director shall notify by mail affected parties that an application for a Lot Development Option has been filed.
2. Affected parties shall mean any owner and occupants of property within 100 ft. of the subject property and any other persons whom the Director determines are affected by the application. In addition, notice shall be provided to any neighborhood or community organization recognized by the City and whose boundaries include or are adjacent to the site.
3. The notice shall state that all comments concerning the proposed Lot Development Option must be submitted in writing and received by the Director within 14 calendar days from the date of mailing the notice. The notice shall include the following:
 - a) Street address or other easily understood geographical reference to the subject property;

- b) Applicable criteria for the decision;
- c) Place, date, and time comments are due;
- d) Statement that copies of all evidence relied upon by the applicant are available for review, and that copies can be obtained at cost;
- e) Name and phone number of staff contact person;
- f) Statement that a Notice of Disposition shall be provided to the applicant and any person who submits written comments;
- g) An explanation of appeal rights; and
- h) A summary of the local decision making process.

- b. **Major Lot Development Option** - Public Notice for a Major Lot Development Option shall be provided consistent with Section 2.0.50.04.b.

2.12.30.05 - Staff Evaluation

- a. **Minor Lot Development Option** - The application and any comments that have been received shall be reviewed to ensure consistency with the review criteria in Section 2.12.30.06.a, below.
- b. **Major Lot Development Option** - The Director shall prepare a report that evaluates whether the proposal complies with the review criteria in Section 2.12.30.06.b, below. The report shall include a recommendation for approval or denial and, if needed, a list of conditions for the Land Development Hearings Board to consider if an approval is granted.

2.12.30.06 - Review Criteria

- a. **Minor Lot Development Option** - With respect to the requested variation, a Minor Lot Development Option shall be reviewed to determine if the following criteria have been met:
 - 1. The proposal is consistent with Section 2.12.30.03.a and Sections 2.12.30.03.c-e and “h;”
 - 2. The land use for the proposed development is allowed in the underlying zone;

3. The proposed development falls within the minimum and maximum density requirements for the underlying zone;
4. All structures comply with Building and Fire Codes and Vision Clearance requirements established by the City Engineer;
5. The proposed development is not contrary to the background and purposes in Sections 2.12.10.and 2.12.20 and any other applicable policies and standards adopted by the City;
6. The proposed development does not substantially reduce the amount of privacy enjoyed by users of neighboring structures when compared to development located as specified by this Code;
7. The proposed development does not adversely affect existing physical and natural systems, such as traffic, drainage, dramatic land forms, or parks, nor adversely affect the solar access potential for abutting properties when compared to development located as specified in this Code;
8. Where architectural features are involved, the proposed development is compatible with the design character of existing structures on adjoining properties;
9. Where variations are proposed to Chapter 4.10 - Pedestrian Oriented Design Standards, the proposed development implements the purpose(s) of that chapter through inclusion of additional benefits to the pedestrian environment that compensate for the requested variations from development standards;
10. Preservation and/or protection of Significant Natural Features is achieved, consistent with Chapter 4.2 - Landscaping, Buffering, Screening, and Lighting, Chapter 4.5 - Natural Hazard and Hillside Development Provisions, Chapter 4.11 - Minimum Assured Development Area (MADA), Chapter 4.12 - Significant Vegetation Protection Provisions, and Chapter 4.13 - Riparian Corridor and Wetland Provisions. Streets are also designed along contours, and structures are designed to fit the topography of the site to ensure compliance with these Code standards; and
11. The proposed development shall provide benefits within the development that compensate for the variations from development standards such that the intent of the development standards is still met.

b. Major Lot Development Option - A Major Lot Development Option shall be reviewed to ensure consistency with the purposes of this Chapter, policies and density requirements of the Comprehensive Plan, other applicable policies and standards adopted by the City Council, and the following criteria:

1. The proposal is consistent with Section 2.12.30.03.b, c, d, e, g, and i;
2. The proposal is consistent with “a.2” through “a.11,” above; and
3. With respect to the requested variations, the application demonstrates compatibility in the following areas, as applicable:
 - a) Basic site design (the organization of Uses on a site and the Uses’ relationships to neighboring properties);
 - b) Visual elements (scale, structural design and form, materials, etc.);
 - c) Noise attenuation;
 - d) Odors and emissions;
 - e) Lighting;
 - f) Signage;
 - g) Landscaping for buffering and screening;
 - h) Transportation facilities;
 - i) Traffic and off-site parking impacts;
 - j) Utility infrastructure;
 - k) Effects on air and water quality (note: a DEQ permit is not sufficient to meet this criterion);
 - l) Consistency with the applicable development standards, including the applicable Pedestrian Oriented Design Standards; and
 - m) Preservation and/or protection of Significant Natural Features, consistent with Chapter 4.2 - Landscaping, Buffering, Screening, and Lighting, Chapter 4.5 - Natural Hazard and Hillside Development

Provisions, Chapter 4.11 - Minimum Assured Development Area (MADA), Chapter 4.12 - Significant Vegetation Protection Provisions, and Chapter 4.13 - Riparian Corridor and Wetland Provisions. Streets shall also be designed along contours, and structures shall be designed to fit the topography of the site to ensure compliance with these Code standards.

2.12.30.07 - Action on Application

- a. **Minor Lot Development Option** - Based on the review criteria above and any written comments received from affected parties, the Director shall review the proposed development and either approve, conditionally approve, or deny the application after the completion of the 14-day comment period.
- b. **Major Lot Development Option** - The Land Development Hearings Board shall conduct a public hearing in accordance with Chapter 2.0 - Public Hearings. Following the close of the public hearing, the Board shall approve, conditionally approve, or deny the Major Lot Development Option. The Board's decision shall include findings that specify how the application has or has not complied with the review criteria in Section 2.12.30.06.b.

2.12.30.08 - Notice of Disposition

- a. **Minor Lot Development Option** - The Director shall provide the applicant with a Notice of Disposition that includes a written statement of the decision, a reference to the findings leading to it, any Conditions of Approval, and the appeal period deadline. The Notice shall also be mailed to persons who provided written comment on the mailed notice. The Notice of Disposition and all applicable information shall be available in the Development Services Division of the Community Development Department.
- b. **Major Lot Development Option** - The Director shall provide the applicant with a Notice of Disposition in accordance with Chapter 2.0 - Public Hearings that includes a written statement of the Land Development Hearings Board's decision, a reference to findings leading to it, any Conditions of Approval, and the appeal period deadline. A Notice of Disposition shall also be mailed to persons who presented oral or written testimony at the public hearing.

2.12.30.09 - Appeals

- a. Minor Lot Development Option** - The decision of the Director may be appealed to the Land Development Hearings Board in accordance with Chapter 2.19 - Appeals.
- b. Major Lot Development Option** - The decision of the Land Development Hearings Board may be appealed in accordance with Chapter 2.19 - Appeals.

2.12.30.10 - Effective Date

- a. Minor Lot Development Option** - Unless an appeal has been filed, the decision of the Director shall become effective 12 days after the notice of disposition is signed.
- b. Major Lot Development Option** - Unless an appeal has been filed, the decision of the hearing authority shall become effective 12 days after the notice of disposition is signed.

2.12.30.11 - Effective Period of Approval

Both Minor and Major Lot Development Option approvals shall be effective for a two-year period from the date of approval. If the applicant has not begun the development or its phases within the two-year period, the approval shall expire.

