

CODE AMENDMENT
DRAFT

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10.033 Continuation of Nonconforming Development.

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(6) A lot of record, or a parcel of land for which a deed or other instrument dividing the land was recorded with Jackson County prior to May 5, 1980, which has an area or dimension less than required by this code, shall be considered legal nonconforming and may be developed and occupied by a permitted use subject to compliance with the minimum standards of this code.

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10.034 Criteria for Nonconformity Expansion or Change.

A nonconforming structure or use described in Section 10.032, Nonconformities, may be expanded or changed to serve another use, as per Section 10.033, Continuation of Nonconforming Development. The expansion or change shall be found to comply with the following criteria:

(1) The lot or parcel of record was legally created, **is a legal, nonconforming lot or parcel as described in Section 10.033(6), or was legally established in accordance with the provisions of Section 10.171, Validation of a Unit of Land.**

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10.108 Land Use Review Procedure Types.

Table 10.108-1 identifies the procedural type, applicable standards, and approving authority for each type of land use review as well as whether the 120-day rule in Section 10.104(D) is applicable. Each procedural type is subject to specific due process and administrative requirements of this chapter.

Table 10.108-1. Land Use Review Procedures				
Land Use Review Type	Procedural Type	Applicable Standards	Approving Authority	Subject to 120 Day Rule (ORS 227.178)?
Vacation of Public Right-of-Way	IV	10.228	City Council	No
<u>Validation of a Unit of Land</u>	<u>II</u>	<u>10.171</u>	<u>Planning Director</u>	<u>Yes</u>

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10.168 **Type II Land Use Actions.**

(A) Type II actions comprise the following land use reviews:

- Land Use Actions
- Partition, Tentative Plat
- Validation of a Unit of Land**
- Portable Storage Containers

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10.171 Validation of a Unit of Land.

(A) Purpose. The purpose of this section is to establish a process pursuant to ORS 92.176 by which a unit of land that was unlawfully created may be lawfully validated. This section shall only be used to validate units of land that were unlawfully created prior to January 1, 2007. For purposes of this section, a unit of land is unlawfully created if:

- (1) It was created through a deed or land sale contract that did not comply with the criteria applicable to the creation of the unit of land at the time of sale or transfer; and**
- (2) It was created solely to establish a separate tax account, created by gift, or created through any other method of transfer that is not considered a sale.**

(B) Procedure. The review and approval of a validation of a unit of land request is a Type II administrative decision with notice, and the Planning Director is the approving authority. The Planning Department shall route a copy of the application materials to the appropriate referral agencies including the City Surveyor for review and comments in accordance with Section 10.112.

(C) Review Criteria. The Planning Director shall approve an application to validate a single unit of land if all of the following criteria are met:

- (1) The unit of land was unlawfully created as defined in 10.171(A) prior to January 1, 2007; and**
- (2) The unit of land could have complied with applicable criteria for the creation of a lawfully established unit of land in effect when the unit of land was sold; and**
- (3) A validation tentative plat, prepared by an Oregon professional land surveyor, complying with Section 10.170(C), Partition Tentative Plat (see Sections 10.202(C)(1) through (C)(8)), and the applicable provisions of ORS Chapter 92.**

(D) Unlawfully Created Units of Land with Existing Structures.

Notwithstanding Section 10.171(C)(2), the Planning Director may approve an application to validate a unit of land under this section that was unlawfully created prior to January 1, 2007, if the city or county approved a permit as defined in ORS 227.160 for the construction or placement of a dwelling or other building on the unit of land after the sale[See ORS 92.176(2)]

(E) Expiration and Recording.

(1) Approval to validate a unit of land shall take effect on the date the Planning Director's decision is signed.

(2) A final validation plat, prepared by an Oregon professional land surveyor, shall be submitted by the applicant for review and signatures in accordance with applicable provisions of Section 10.162, ORS 92 and ORS 209. The unit of land becomes lawfully established if the plat is recorded with the county within 90 days after the date the city validates the unit of land.

(3) One copy of the recorded plat (either in paper or electronic format) shall be provided to the Planning Department within 10 days following recordation.

(F) Development or Improvement of a Lawfully Established Unit of Land.

Development or improvement of a unit of land created under subsection (E) of this section must comply with the applicable laws in effect when a complete application for the development or improvement is submitted. [See ORS 92.176(7)]

(G) Application Form.

An application for Validation of a Unit of Land shall contain the following:

(1) The deed, land sales contract or other document that created the unit of land;

(2) For a unit of land unlawfully created within the City, a copy of the land division and zoning regulations applicable to the property at the time the unit of land was created;

(3) For a unit of land unlawfully created outside the City, documentation identifying the County zoning designation of the property at the time the unit of land was created and either:

(A) A written statement from the County confirming the unit of land could have complied with the applicable criteria for creation of the unit of land in effect when it was created; or

(B) A copy of the land division and zoning regulations applicable to the property at the time the unit of land was created; and

(4) A validation tentative plat prepared in accordance with Section 10.170(C), Partition Tentative Plat (see Sections 10.202(C)(1) through (C)(8)), and the applicable provisions of ORS Chapter 92.