



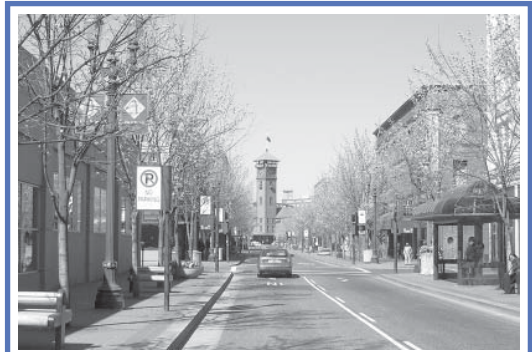
# LAND DIVISION INFORMATION GUIDE

## Rights-of-Way Regulations, Ch. 33.654

A right-of-way is defined as an area that allows for the passage of people or goods. Rights-of-way include passageways such as freeways, pedestrian connections, alleys, and all streets. All new lots and parcels must front on a street (either a public right of way or a private street tract). The length of the street frontage requirement varies by zone, as described in Chapters 33.605 to 33.615.

The regulations governing the creation of a right-of-way within a land division site can be found in Chapter 33.654 of the Zoning Code. These regulations are also used to determine if new rights-of-way are required. This guide provides information about street connectivity; and the creation of new streets and alleys during a land division review.

- More detailed public street standards can be found in a document entitled *Creating Public Streets and Pedestrian Connections* through the Land Use and Building Permit Process. This document can be viewed on the Internet at: [www.portlandoregon.gov/transportation | Permits & Guidelines | Design Guidelines](http://www.portlandoregon.gov/transportation/Permits%20&%20Guidelines/Design%20Guidelines).
- More detailed private street standards can be found in the Bureau of Development Service's Administrative Rules for Private Rights-of-ways. This document can be viewed on the Internet at: [www.portlandoregon.gov/bds | Codes | Administrative Rules | Private Streets](http://www.portlandoregon.gov/bds/Codes/Administrative%20Rules/Private%20Streets). If you are proposing a new private right-of-way which does not meet the Planning Rules of the Administrative Rules, you must request exceptions as part of your land division review and address the exceptions in your findings for how the approval criterias are met.



### Types of rights-of-way typically created with land divisions

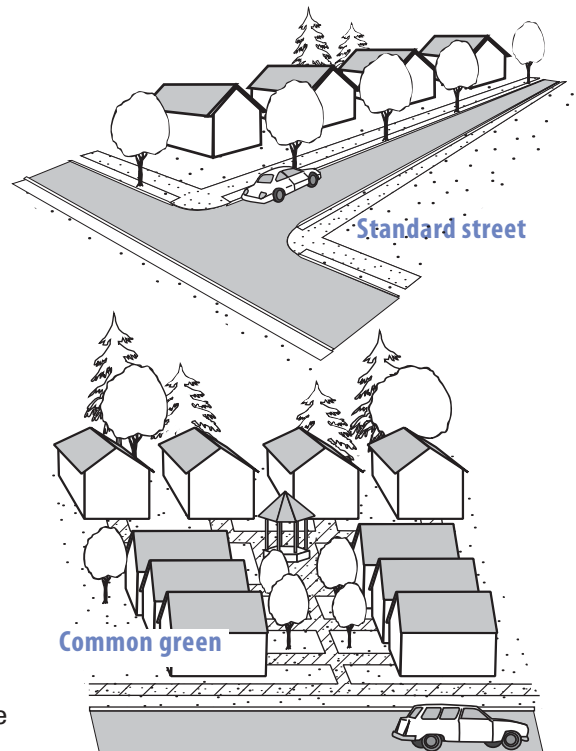
There are several different kinds of rights-of-way that may be created as part of a land division:

#### Standard street

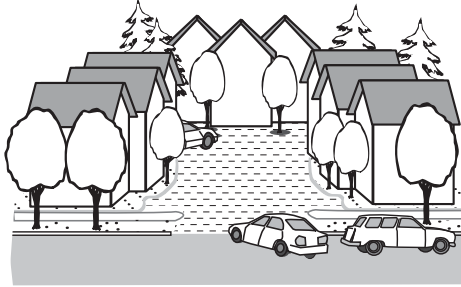
A right-of-way that is intended for motor vehicle, pedestrian and bicycle travel, and access to abutting property.

#### Common green

A street that provides for pedestrian and bicycle access to abutting property and generally provides a common area for use by residents. A common green may function as a community yard. Hard and soft landscape features may be included in a common green, such as ground cover, trees, shrubs, surfaced paths, patios, benches, or gazebos. Common greens do not provide motor vehicle access. Lots that front on common greens still have to meet the relevant off-street parking requirements in Zoning Code Chapter 33.266.



Shared court



In most cases, access to off-street parking on a lot fronting a common green can be achieved by providing vehicle access to the lot via an alley, a shared driveway or by providing a shared parking tract serving a group of new lots. Each lot fronting on a common green must also meet Fire Bureau emergency access requirements.

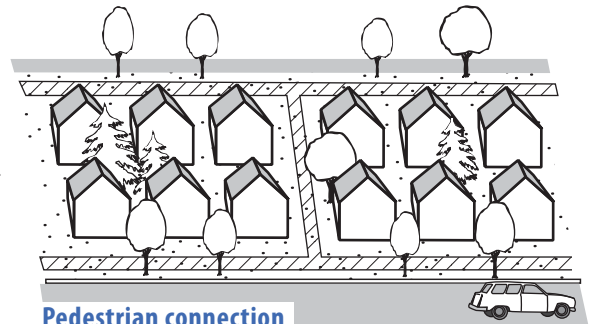
**Shared Court**

A street that is designed to accommodate vehicles, pedestrians and bicycles in the same circulation space. Instead of a separate sidewalk area, a shared court is surfaced with paving blocks, bricks or other ornamental pavers to indicate that the entire street is intended for pedestrians,

as well as vehicles. Traffic calming measures may be needed to ensure safe co-existence of the users. Like a common green, a shared court may function as a community yard and may include hard and soft landscape features, such as trees, shrubs, lighting and benches. Shared courts may be used to provide access to up to 16 lots in multi-dwelling, commercial or employment zones. Lots fronting on a shared court must be developed with attached or detached houses or duplexes. Fire Bureau access requirements must be met.

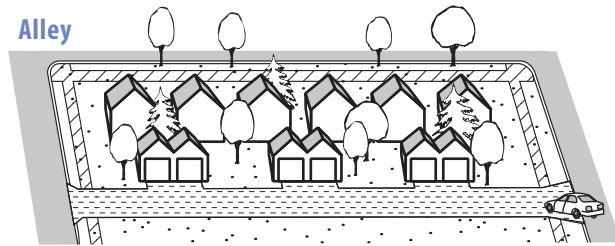
**Pedestrian connection**

A street created solely for pedestrians and bicyclists, which generally provides a through connection between two streets, often through a long block. The end of a pedestrian connection should generally be visible from the entrance.



Pedestrian connection

Alley



**Alley**

A right-of-way that provides vehicle access to a lot or common parking area. Generally, alleys provide secondary vehicle access; however, where vehicle access from the street is not allowed or not possible, the alley may provide primary vehicle access. Private alleys serving more than five lots must be in a tract. Alleys serving five or fewer lots may be in an easement.

**During a land division review, the following terms may be used:**

**Through streets** - A through street is a street that connects to other streets at both ends.

**Dead-end streets** - A dead-end street is a street that connects to another street at only one end, or extends from an existing dead-end street. A turnaround is required on a dead-end street that:

- Serves four or more lots;
- Is at least 300 feet long; or
- When required by the Office of Transportation, the Fire Bureau, or the Bureau of Development Services.

**Partial streets** - A partial street is one or more parts of a dead-end street or through street; each part usually is located on a different site. Partial streets are created when a street will be completed in stages, on more than one site. Partial streets may include the whole or part of a turnaround, part of the total width (partial-width street), or part of the total length (streets intended to be continued). Temporary turnarounds may be required where a street is planned to continue.

**Tract** - A tract is a piece of land created and designated as part of a land division that is not a lot, lot of record, or a public right of way. Tracts are created and designated for a specific purpose. Land uses within a tract are restricted to those uses consistent with the stated purpose as described on the plat, or in the maintenance agreements, or through Conditions, Covenants and Restrictions (CC&Rs). Examples include stormwater management tracts, private street or alley tracts, tree preservation tracts, environmental resource tracts, and open space tracts.

**Easement** - An easement is a right granted to a person to make limited use of another's property, or a portion of that property. For example, a reciprocal access easement can be recorded to allow two neighbors to share a single driveway along their common property line. An easement is usually granted through an easement agreement, with a legal description of the area subject to the agreement. The City of Portland also requires that a maintenance agreement be recorded for all easements designated on the plat.

## Public vs. private rights-of-way

A right-of-way may be dedicated to the public for public use, or it may be privately owned in some circumstances. Streets may be either public or private depending on the number of lots served, and depending on the location of other streets in the area. Ownership of rights-of-way is discussed in Section 33.654.150 of the Zoning Code.

### When public rights-of-way are required

- All through streets must be public.
- Streets must be public if they are constructed as a partial-width street along the edge of the land division site, where the remainder of the street will be provided later when an adjacent site develops.
- Streets must be public if they are designed to be continued onto an adjacent site, or will serve lots on an adjacent site. If the other lots surrounding the land division site can be further subdivided, the Portland Office of Transportation and the Bureau of Development Services will review the development potential on those lots, and consider if a public connection would be desirable. Public streets may be required: 1) where they are necessary to facilitate the later development of surrounding lots to their full potential; 2) where they are specified in an adopted street plan; and 3) where they are needed to provide a more connected street network meeting the City's street spacing standards (see the "connectivity" section below). In planning a street network, land division applicants should consider opportunities to provide a street system that can also serve future development of surrounding lots.
- Dead-end streets that abut nine or more lots must be public.
- Pedestrian connections that connect or are intended to eventually connect two through streets must be dedicated to the public.
- Pedestrian connections that connect or are intended to eventually connect to a public school, park or library, must be dedicated to the public.
- A public alley may be required when it abuts a site that may be divided or further developed.

### May be private

- Dead-end streets that abut no more than eight lots may be private.
- Common greens and shared courts must be private.
- Pedestrian connections may be private as long as they do not connect two through streets, or connect to a public school, park or library.

## Dedication of public rights-of-way on the land division plat

Public rights-of-way are dedicated to the public as part of the final plat procedure. The City Engineer will not sign the final plat until all requirements for the dedication are met. When property is dedicated to the public for a street, if there is a mortgage on the property, then the property owner is required to obtain the approval of the lender(s) before the plat can be recorded.

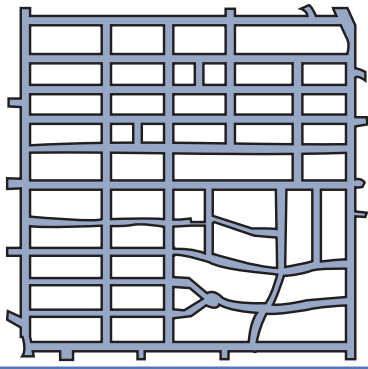
## Designating private rights-of-way on the land division plat

Private rights-of-way must be owned in common by the owners of the property served by the right-of-way, or by the Homeowners' Association. Private rights-of-way must be designated on the plat as a special purpose tract. Alleys serving up to five lots may be located on private lots, in easements.

If the right-of-way is privately owned, a maintenance agreement must be recorded that commits the owner

to maintain all elements of the right-of-way. When a land division designates property that will be commonly owned, state laws governing Planned Communities may also apply (see ORS 94.550 through 94.783).

## Through streets are encouraged



Sidewalks within private rights-of-way must include a public walkway easement that allows public access on all parts of the sidewalk. Public walkway easements must be recorded on the Final Plat.

## Street connectivity and location of rights-of-way

A connected street pattern is required where possible. This type of street pattern allows for more convenient pedestrian and bicycle travel, and helps avoid congestion at any one intersection. In many parts of the City the street pattern is already established. Within established street patterns there are occasional gaps or missing connections. New connections may be required where there are gaps. In some cases a pedestrian connection will be accepted if a full through street is not practical.

In Open Space (OS), Residential (R), Commercial (C) and Employment (E) Zones, through streets should generally be provided 200 to 530 feet apart. Where an existing street pattern already exists that meets this standard, the existing pattern should be continued through the site.

Pedestrian Connections should generally be 200 to 330 feet apart, and should take the most direct route possible. Pedestrian connections should be designed for visibility - users should be able to see the exit point from the entrance point if possible.

In Open Space, Residential, Commercial and Employment Zones, public dead-end streets should generally be at least 200 feet apart where possible. Private dead-end streets are subject to the same spacing requirements as private driveways, as regulated by the Portland Office of Transportation. Depending on the configuration of the abutting public street, and the location of other private streets on abutting lots, the location of the private street may be constrained.

There are no street connectivity requirements for Industrial zones. Pedestrian connections, however, may be required to all regional transit-ways, major transit priority streets, transit access streets, community transit streets, off-street paths, and recreational trails within 1,300 feet of the site.

Alleys may be required where appropriate to mitigate transportation or development impacts related to potential traffic and pedestrian conflicts, parking, and aesthetics.

Other site characteristics may be considered to justify an exception to these guidelines described above, such as: topography, development potential of surrounding lots, location of existing streets, the size and shape of the site, and the presence of environmental resources (environmental overlay zones).

Where possible, streets should be located to avoid existing dwellings. However, the provision of through streets and pedestrian connection may take precedence over the protection of existing dwellings units where there would be a significant impact on the surrounding transportation system.

## Width of rights-of-way and elements within rights-of-way

The design and configuration of elements within rights-of-way, such as the roadway and sidewalks, will be subject to technical review by the Office of Transportation (for public streets) and the Bureau of Development Services (for private streets). The Office of Transportation will make technical decisions based on adopted manuals and guides, such as the Pedestrian Guidelines. These standards are summarized in a booklet entitled: *Creating Public Streets and Pedestrian Connections through the Land Use and Building Permit Process*. The Site Development Section of the Bureau of Development Services will make technical decisions based on the



*Administrative Rules for Private Right-of-Ways.* These design decisions are technical decisions, separate from the land use review.

The width of the right of way is a land use decision, taking into consideration the expected users, characteristics of the site and vicinity, existing street and pedestrian system improvements, and the natural features of the site. The width must be sufficient to accommodate the required elements of the right of way. The technical documents listed above contain guidelines for right-of-way width based on the different street elements that are typically required depending on the zone and the number of lots served.

## Other requirements

### Utilities

Utilities must be located within or near rights-of-way to the maximum extent practicable.

### Stormwater management

Facilities must be designed to manage and dispose of stormwater draining from the street. Stormwater management facilities must be in the right of way, in the private street tract, or in a separate special purpose tract. The City of Portland Stormwater Management Manual describes facility design and sizing requirements. The Stormwater Management Manual can be found on the internet at:

- [www.portlandoregon.gov/bes | Publications | Manuals | Stormwater Manual](http://www.portlandoregon.gov/bes/Publications/Manuals/StormwaterManual)

Disposal of street runoff into underground facilities (such as sumps, drywells, or soakage trenches) must also meet the Oregon Department of Environmental Quality (DEQ) rules for Underground Injection Control (UIC). Streets that include these facilities will not be approved unless they have been rule authorized or permitted by DEQ. Information about UIC rules can be found in the City's Stormwater Management Manual or on the DEQ Web site at:

- [www.deq.state.or.us/wq/uic/uic.htm](http://www.deq.state.or.us/wq/uic/uic.htm)

### Street Trees

Street trees are generally required. Contact Urban Forestry in Portland Parks and Recreation at 503-823-4489 for more information.

## Frequently Asked Questions

### Q Who decides the width of the street right-of-way or tract?

**A** The Land Use Review decision-maker, the BDS Planner or the Hearings Officer, will determine the width and location of the street right-of-way or tract. This decision will be based on the elements that will be needed within the street. For more information refer to the *BDS Administrative Rules for Private Rights-of-ways*, and PDOT's booklet on *Creating Public Streets and Pedestrian Connection through the Land Use and Building Permit Process*.

### Q Do I need to put in a turnaround, and if so, how should it be designed?

**A** Turnarounds are required on a standard street that serves four or more lots, or is at least 300 feet long; or in other situations where PDOT or BDS deem it necessary. This is a land use decision and will ultimately be decided as part of the land use review. The turnaround must be of a size to accommodate expected users, minimize paved area, provide adequate area for safe movement for vehicles, pedestrians, and bicyclists. The design will be evaluated during the land use review, based on those considerations. Refer to the booklets listed above for guidance.

### Q Can a turnaround be a cul-de-sac or a hammerhead?

**A** For public streets, the turnaround must generally take the form of a circular cul-de-sac. For private streets, hammerhead style turnarounds are allowed, subject to the BDS Administrative Rules for Private Rights-of ways.

**Q Can a temporary turnaround be provided in lieu of a permanent turnaround at the end of a dead-end street that will be extended in the future?**

**A** Yes. Where a street is temporarily terminating within the land division site and will be extended in the future a temporary turnaround may be required.

**Q Do I need to put in a sidewalk? Does it have to be on both sides of the street?**

**A** Generally sidewalks are required, except along private streets serving only one to three lots. For public streets, consult PDOT's booklet on *Creating Public Streets and Pedestrian Connection through the Land Use and Building Permit Process* to determine how wide the sidewalk needs to be. Sidewalk requirements depend on the street classification, the zone, and the number of lots served. Consult the *BDS Administrative Rules for Private Rights-of-ways* for information about sidewalks along private streets.

**Q How does the presence of an existing home affect the location of the street?**

**A** For through streets, the existence of a structure doesn't supercede the connectivity requirements if the through street is needed to prevent detrimental impacts on the surrounding transportation system.

**Q What are "non-local streets"?**

**A** Also known as arterial streets, non-local streets are all streets that are not classified as local service streets in the Transportation Element of the Portland Comprehensive Plan. They vary widely in design, and include neighborhood and district collectors, and major city traffic streets.

**Q Can private streets be gated?**

**A** No. Portland has adopted an ordinance that prohibits gated communities.

For more information visit or call the Planning and Zoning staff at the Development Services Center at 1900 SW 4th Avenue, Suite 1500, 503-823-7526

For current Portland Zoning Code visit [www.portlandonline.com/bds/zoningcode](http://www.portlandonline.com/bds/zoningcode)

Information is subject to change.